By Mr. REUSS:

H.R. 13290. A bill to provide that the money designated on 1972 tax returns to be made available to a specified political party which (after such designation) has been directed by law to be used otherwise, shall remain in the general fund of the Treasury unless redesignated to the Presidential Election Campaign Fund by the taxpayer; to the Committee on Ways and Means.

By Mr. ROUSH:

H.R. 13291. A bill to amend the Internal Revenue Code of 1954 to allow the rapid depreciation of expenditures to rehabilitate low-income rental housing incurred after December 31, 1974; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 13292. A bill to amend title II of the Social Security Act to increase to $3,600 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Ms. SCHROEDER (for herself and Mr. EVANS of Colorado):

H.R. 13293. A bill to provide that the project referred to as the Chatfield Dam and Lake on the South Platte River, Colo., shall hereafter be known and designated as the "Edwin C. Johnson Dam and Lake"; to the Committee on Public Works.

By Mr. STEELMAN:

H.R. 13294. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the authority of the Secretary of Health, Education, and Welfare with respect to foods for special dietary use; to the Committee on Interstate and Foreign Commerce.

By Mr. STEED:

H.R. 13295. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 5-year period, and for other purposes; to the Committee on Public Works.

By Mrs. SULLIVAN (for herself, Mr. CLARK, Mr. ASHLEY, Mr. DINGELL, Mr. DOWNING, Mr. STUBBLEFIELD, Mr. MURPHY of New York, Mr. JONES of North Carolina, Mr. ANDERSON of California, Mr. KYROS, Mr. ECKHARDT, Mr. GINN, Mr. STUDDS, Mr. GROVER, Mr. MOSHER, Mr. LOTT, and Mr. PRITCHARD):

H.R. 13296. A bill to authorize appropriations for the fiscal year 1975 for certain maritime programs of the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

By Mr. SYMMS (for himself, Mr. TEAGUE, Mr. SEBELIUS, Mr. FLYNT, Mr. DEVINE, Mr. COLLINS of Texas, Mr. BAUMAN, Mr. STEIGER of Arizona, Mr. PRICE of Texas, Mr. ICHORD, Mr. BAKER, Mr. ZION, Mr. BRINKLEY, Mr. MOORHEAD of California, Mr. FROEHLICH, Mr. LUJAN, Mr. BLACKBURN, Mr. DAN DANIEL, Mr. YOUNG of South Carolina, Mr. SATTERFIELD, Mr. COLLIER, Mr. SNYDER, Mr. SHUSTER, Mr. TAYLOR of Missouri, and Mr. DEL CLAWSON):

H.R. 13297. A bill to repeal the Occupational Safety and Health Act; to the Committee on Education and Labor.

By Mr. TIERNAN (for himself, Mr. BADILLO, Mr. BERGLAND, Ms. COLLINS of Illinois, Mr. CORMAN, Mr. EDWARDS of California, Mr. HOGAN, Ms. HOLTZMAN, Mr. MOAKLEY, Mr. PEPPER, Mr. RIEGLE, Mr. ST GERMAIN, Mr. SARBANES, Ms. SCHROEDER, and Mr. VIGORITO):

H.R. 13298. A bill to protect the environment and conserve natural resources by stimulating the recovery, reuse, and recycling of waste materials and by decreasing the quantity of materials moved in commerce which must be disposed of ultimately as waste; to promote and regulate commerce by identifying and establishing standards and guidelines for the proper management of waste which poses a substantial hazard to human health or the environment, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN (for himself, Mr. BADILLO, Mr. BUCHANAN, Ms. COLLINS of Illinois, Mr. CORMAN, Mr. EDWARDS of California, Mr. HOGAN, Mr. PEPPER, Mr. RIEGLE, Mr. ST GERMAIN, Mr. SARBANES, Ms. SCHROEDER, Mr. SYMINGTON, and Mr. VIGORITO):

H.R. 13299. A bill to protect the environment and conserve natural resources by stimulating the use of recycled or recyclable materials by effecting rate changes in the movement of these materials by common carrier, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STUBBLEFIELD:

H.R. 13300. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mrs. BOGGS:

H.R. 13301. A bill to establish a trust fund in the Treasury of the United States to be known as the National Elderly and Handicapped Housing Load Fund, and for other purposes; to the Committee on Banking and Currency.

By Mr. COLLINS of Texas:

H.R. 13302. A bill to amend section 1201 of title 18 of the United States Code to impose penalties on the acceptance of a benefit extorted through kidnaping and on assisting in the distribution of such a benefit; to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 13303. A bill to amend title 5, United States Code, to provide that persons be given access to records concerning them which are maintained by Government agencies; to the Committee on Government Operations.

H.R. 13304. A bill to amend title 5, United States Code, to provide that persons be given access to records concerning them which are maintained by Government agencies; to the Committee on Government Operations.

By Mr. MOORHEAD of Pennsylvania:

H.R. 13305. A bill to authorize the disposal of graphite from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. NIX:

H.R. 13306. A bill to amend the Food Stamp Act of 1964, as amended, and for other purposes; to the Committee on Agriculture.

H.R. 13307. A bill to require filing of domestic food price impact statement in connection with exports of U.S. commodities; to the Committee on Banking and Currency.

By Mr. REID:

H.R. 13308. A bill to investigate the relationships between those persons engaged in the provision of accounting services to major oil companies and said companies, to require integrated major oil companies to file with the Federal Trade Commission accounting reports for each and any of their four levels of operation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 13309. A bill to amend the Small Business Act to expand the definition of small business concern to include agribusinesses; to the Committee on Banking and Currency.

By Mr. HOSMER:

H.R. 13310. A bill to establish a national policy for a comprehensive program of research and development in energy sources and energy utilization technologies; to the Committee on Interior and Insular Affairs.

By Mr. HUBER (for himself, Mr. DEVINE and Mr. GUYER):

H. Con. Res. 441. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. DIGGS:

H. Res. 957. Resolution to provide funds for the expenses of the investigations and studies authorized House Resolution 162; to the Committee on House Administration.

By Mr. McKINNEY:

H. Res. 958. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

368. By the SPEAKER: Memorial of the Legislature of the Senate of Colorado, relative to the observance of Veterans Day on November 11; to the Committee on the Judiciary.

369. Also, memorial of the Legislature of the State of Georgia, relative to a constitutional amendment guaranteeing legal protection to the unborn; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. STUBBLEFIELD:

H.R. 13311. A bill for the relief of Yan Kwong Yuen; to the Committee on the Judiciary.

By Mr. DOWNING:

H.J. Res. 931. Joint resolution restoring citizenship posthumously to Gen. R. E. Lee; to the Committee on the Judiciary.

SENATE—*Wednesday, March 6, 1974*

The Senate met at 10 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, our Father, in these strange and troublous days, demanding great leadership, may we in this place be very conscious of the clear and unmistakable leadership of Thy spirit. When we are unsure, may we seek Thy guidance and inwardly hear Thee say, "This is the way, walk ye in it." And hearing Thy voice grant us the will to obey Thee. Help us always as servants of all the people to choose the highway which leads to justice and peace. May we come to the close of the day with a richer experience of Thy presence, a surer mastery of ourselves and a deeper sympathy with struggling humanity.

In Christ's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 6, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. NUNN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 5, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 1, Public Law 86–42, the Speaker had appointed Mr. MORGAN, chairman, Mr. JOHNSON of California, Mr. RANDALL, Mr. KYROS, Mr. STRATTON, Mr. MEEDS, Mr. CULVER, Mr. MCEWEN, Mr. HORTON, Mr. WINN, Mr. DU PONT, and Mr. MALLARY as members of the U.S. delegation of the Canada-United States Interparliamentary Group, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1, Public Law 86–420, the Speaker had appointed Mr. NIX, chairman, Mr. WRIGHT, Mr. GONZALEZ, Mr. DE LA GARZA, Mr. KAZEN, Mr. UDALL, Mr. WALDIE, Mr. WIGGINS, Mr. LUJAN, Mr. BROOMFIELD, Mr. BURKE of Florida, and Mr. CONLAN as members of the U.S. delegation of the Mexico-United States Interparliamentary Group, on the part of the House.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

GHANA'S 17TH YEAR OF INDEPENDENCE

Mr. MANSFIELD. Mr. President, today marks the 17th year of independence for the nation of Ghana. Since independence 17 years ago, Ghana has made remarkable progress in all fields of development. She has built roads, hospitals, new townships, developed rural electrification, and has supplied her people with pipe-borne water and other social amenities. New schools have been built and the old educational system has been changed to reflect the needs of Ghana's society.

The Government of Ghana has shown practical understanding of its problems by injecting strict discipline into its economy. Imports have been controlled to appreciable levels. Every effort has been made to boost exports in textiles, wood products, aluminum alloys, processed cocoa products, and so forth.

All this has yielded positive results. One of the achievements of the program has been a decrease in unemployment and inflation and high prices. Ghana's economic and industrial policies provide for viable foreign investment and partnership in certain economic areas.

It happens that Ghana's trade with the United States and other North and South American countries, including the Caribbean, is being vigorously pursued by the National Redemption Council Government.

The Senate of the United States congratulates Ghana on its 17th year of independence and wishes it well in the years, the decades, and the centuries ahead.

Mr. HUGH SCOTT. Mr. President, will the distinguished majority leader yield to me?

Mr. MANSFIELD. I am happy to yield to the Republican leader.

Mr. HUGH SCOTT. Mr. President, since independence 17 years ago, Ghana has made remarkable progress in all fields of development. She has built roads, hospitals, new townships, developed rural electrification, and has supplied her people with pipe-borne water, and other social amenities. New schools have been built and the old educational system has been changed to reflect the needs of her society.

The Government of the National Redemption Council, led by Col. Ignatius Kutu Acheampong, has shown practical understanding of its problems by injecting strict discipline into the economy. Imports have been controlled to appreciable levels and every effort has been made to boost exports in textiles, wood products, aluminum alloys, processed cocoa products, and so forth. This has yielded positive results; the high price of cocoa, timber, and gold on the world market has also added more inputs into the economy and, as a result, unemployment, inflation, and high prices show a downward trend. The third phase of "Operation Feed Yourself" was launched in northern Ghana recently with the object of increasing agricultural production of food and industrial crops and diversifying Ghana's economy in order to reduce overdependence on cocoa and timber. Ghanaians are determined to make the nation self-reliant and economically viable.

Ghana's economic and industrial policies provide for viable foreign investment and partnership in certain economic areas. The Capital Investments Board provides incentives and liberal concessions to prospective investors who are willing to cooperate with it on equal terms in prescribed areas of operation.

The expansion of Ghana's trade with the United States and other North and South American countries, including the Caribbean, will be vigorously pursued by the National Redemption Council.

With regard to foreign affairs, Ghana has continued to build effective links with her neighbors, worked toward a common market in west Africa and supported vigorously the Organization of African Unity, the United Nations, and its specialized agencies, the third world, the nonalined group, and other regional groups in their efforts to free Africa from colonialism and racialism. Within these organizations, Ghana will continue to join all peace-loving nations in their programs to raise the living standards of peoples all over the world.

It is our hope and belief that the current achievements of the National Redemption Council will continue to inspire Ghanaians in all walks of life so that Ghana shall be a shining example to all lovers of peace, freedom, justice and human progress.

Mr. President, I yield back my own time.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Heiting, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1866) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 2544. An act to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land located in the State of California to the record owners of the surface thereof;

H.R. 3901. An act to convey the mineral rights in certain real property located in Seminole County, Fla., to the record owners of the surface;

H.R. 9440. An act to provide for access to all duly licensed psychologists and optometrists without prior referral in the Federal employee health benefits program; and

H.R. 13025. An act to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 8245) to amend Reorganization Plan No. 2 of 1973.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 2544. An act to authorize the Secretary of the Interior to sell reserved mineral inter-

ests of the United States in certain land located in the State of California to the record owners of the surface thereof; and

H.R. 3901. An act to convey the mineral rights in certain real property located in Seminole County, Fla., to the record owners of the surface. Referred to the Committee on Interior and Insular Affairs.

H.R. 9440. An act to provide for access to all duly licensed psychologists and optometrists without prior referral in the Federal employee health benefits program. Referred to the Committee on Post Office and Civil Service.

H.R. 13025. An act to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act. Referred to the Committee on Finance.

PAY RECOMMENDATIONS OF THE PRESIDENT

The Senate resumed the consideration of the resolution (S. Res. 293) to disapprove pay recommendtions of the President with respect to rates of pay for Members of Congress.

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate, Senate Resolution 293, which will be stated.

The assistant legislative clerk read as follows:

A resolution (S. 293) to disapprove pay recommendations of the President with respect to rates of pay for Members of Congress.

The ACTING PRESIDENT pro tempore. Under the previous order, the time between now and 11 a.m. will be equally divided and controlled by the Senator from Montana (Mr. MANSFIELD) and the Senator from Pennsylvania (Mr. HUGH SCOTT).

Mr. MANSFIELD. Mr. President, I yield the time under my control to the distinguished Senator from Wyoming (Mr. MCGEE).

Mr. HUGH SCOTT. Mr. President, I yield the time under my control to the distinguished Senator from Alaska (Mr. STEVENS).

I suggest the absence of a quorum and ask that the time be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have amendments at the desk, and I will address those later, without regard to the outcome of the pending motion.

I see that the distinguished majority leader is in the Chamber. I want him to understand that I have very high and personal regard for him, as he knows; but I have some substantial questions about the procedure that has been invoked in this instance.

I am now continuing the third minute of my "filibuster." We have the strange situation that a cloture motion was filed before the measure was actually taken up. I understand that the reason why it was filed was that originally we thought that the expiration date for the pay raises under the existing law, the Salary Act of 1967, was tonight at midnight. Last Thursday, we were informed that it was on Saturday the ninth, at 12 p.m.

A cloture motion was filed, and, through the courtesy of the majority leader, the vote is being taken this morning at 11 o'clock, instead of at 11 o'clock yesterday morning. But the fact still remains that this cloture motion was filed and that there have been but 4 hours of debate on the subject of the pay raises for the executive branch, the legislative branch, and the judicial branch of government, under the Salary Act of 1967. This hour which is set aside for debate on the cloture motion will be the fifth hour.

We have a commission in being which was appointed pursuant to an act of Congress which was passed during the previous administration, under a system that everyone at that time acclaimed as being the system to take pay raises out of politics. I feel that as a result of the actions that have been taken in this body and in Congress this year, the pay raises have been put back into politics.

We do not have to go too far to find out what is going on on the other side of the aisle. I am certain that everyone knows—at least, I have heard—that there was a caucus of the majority party last week at which this subject was discussed; and I take it that I am an embarrassment to the majority party, in trying to insist that at least some portions of these pay raises should go into effect, because I take it that the determination was made that this matter should be disposed of very quickly.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. MANSFIELD. Mr. President, the Senator has been raising some questions directly and indirectly which I think deserve answers.

I believe it was last Friday that the assistant majority leader was able to come to an agreement relative to a unanimous-consent request in which the Senator from Alaska concurred. Am I correct in that?

Mr. STEVENS. That is correct; but the Senator from Alaska also understood that that arrangement would be made so that the amendments that other members of the Committee on Post Office and Civil Service had could be presented. As a matter of fact, that was the reason for the extra day on this cloture motion.

I have served for 5 years on the Committee on Post Office and Civil Service, and so far I have had 2 minutes to discuss this bill on the floor of the Senate.

Mr. MANSFIELD. Mr. President, will the Senator yield further?

Mr. STEVENS. Yes, sir.

Mr. MANSFIELD. If the Senator has had only 2 minutes I would say that it is his own fault because there has been plenty of time and had the Senator desired to speak we would have stayed in session to make sure he had all the time he wanted.

Furthermore, the Senator from Alaska raised a question about the caucus held by the Democrats last Wednesday to discuss a pay raise. A caucus was held and a discussion was conducted; no decision was sought; no decision was achieved; and the purpose of that caucus, and I must take the responsibility for calling it, was to lay before the Democrats in conference what the situation was vis-a-vis the pay raise and to let them arrive at their own conclusions.

So I would hope that the Senator from Alaska would not have any idea that there was anything "underhanded" going on on this side of the aisle because that is not the way the Senator from Montana operates.

Mr. STEVENS. If the Senator from Montana inferred that from what I said I certainly want to apologize on the RECORD.

What I am saying is I feel the matter was discussed and has been discussed elsewhere than here on the floor because it is an election year, and I think this applies to Senators on both sides of the aisle; that it is a matter of political expediency to brush this under the rug as quickly as possible and not explore fully the possibility of compromise to place in effect a portion of these pay raises for the positions covered by the recommendations of the Commission.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. MANSFIELD. The purpose is not to push this matter under the rug but to dispose of it one way or another as rapidly as possible.

And may I say that I am not in favor of increases in pay of Supreme Court Justices. I am not in favor of increases in the pay of district and appellate judges or for members of the Cabinet. I am not in favor of increases in pay for those in the 16, 17, and 18 grade ranks in civil service because I think if you are going to have a pay raise you better make sure that Congress is on a par with the Supreme Court, with some of these 16's, 17's, and 18's, who, if this goes through, would go beyond congressional pay at the present time.

I think a Member of Congress is just as important and deserves just as much pay as a member of the Supreme Court, or a member of the Cabinet, or some of the civil servants who will get more compensation if this goes through, and if Congress is excluded, than Members of Congress are getting.

As far as I am concerned, I think it is ill timed. We have unions coming on the line and they are talking about a 10-percent request as an increase this year.

It is time for Congress to furnish an example to the rest of the country and I would hope that what Congress does would achieve that objective. There is no politics, as far as I am concerned or as far as my colleagues on this side of the aisle are concerned. It is too bad this is an election year, which raises the possiblity of that allegation, but I would deny that politics is behind the mood of the Senate, and I think the RECORD should be made clear in that respect.

Mr. STEVENS. I thank the majority leader for his comments, and I am certain those are his views.

I would say to my friend from Montana that that may well be and it is his meaning, but the practical effect of this action is that because it is a pay raise presented to Congress in an election year that people who do not have a chance to vote here, those people who are by law prevented from being involved in elections are the ones who are going to be asked to put their finger in the dike when the water is spilling over it.

Mr. MANSFIELD. If the Senator will yield, they can participate in elections because they are voters.

Mr. STEVENS. Yes, and I hope they remember to vote and exercise their prerogatives as far as this instance is concerned because I could not feel more strongly that we are asking the middle management of Government and those members of the bar who have gone on the bench to set an example to try to deter the great unions of this country from seeking a pay raise. I do not think it will work. They have gone 5 years and they have seen 5 years of increases annually. There has been an erosion of their ability to provide for their families; and we are saying to them by the action I anticipate here today, "You should put your finger in the dike; you should stem inflation."

If we are going to set an example with respect to inflation, do not penalize those in the Federal service. If you want to cut out Congress, do so. I voted for that. I think it is wrong, and I believe the distinguished majority leader feels it is wrong.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. MANSFIELD. My heart bleeds for the position in which the Federal judiciary finds itself. In every State lawyers are lined up to take positions in the Federal judiciary. These judges pay nothing toward retirement; they are in for life; they get paid this salary for life even when they retire. As far as the bureaucracy of this country remembering us if we do not vote in their behalf, I would hope that they would remember the country first and the condition in which we are at the present time. As far as Members of the Senate and Congress are concerned, they do not have to keep this job if they do not want it; they can retire; and there will be hundreds waiting to take our places, just as there are hundreds waiting to take the places of the members of the judiciary who are complaining so much and who have been putting on such a tremendous lobby at this time and over the past several weeks.

That is all I have to say.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. HUGH SCOTT. Mr. President, the distinguished Senator from Alaska knows that I have expressed my first preference for the approach by which payments to Members of Congress would be deferred for 1 year and a cost-of-living increase be made to all other officers involved. I realize that that is not particularly fair. It was a concession to those Members of Congress who cannot bring themselves to say they are worth receiving an amount equal to the increase due to inflation and cost of living just received in other segments of the economy. Of course, we are all aware of the fact that some Members of this body and the other body who will vote against the pay raise sincerely hope one will be enacted, but I think that they may well have made that impossible.

The position of the distinguished majority leader has been very clear throughout. He, as a matter of conscience, has made it very clear he is opposed to any pay raise at all, and I respect that position. But I think that in the course of searching for such advantages with the voters as may be had by a vote here, probably the advantage is in casting a vote which says very positively "I do not want an increase." Yet I would safely predict that 80 percent of the Members of this body want that increase, and I would say 80 percent of the Members of the other body, at least, want that increase. Therefore, I think it is a great pity that we cannot face up to these things and say, with courage and candor, that when there has been a 30-percent shortfall in the value of one's payment for one's service, some part of that should be made up, or if none of that catchup is to be made up, that at least some cost-of-living allowance be made.

I am aware that there are judges who are planning to retire if this measure is defeated, particularly one in my city who has already retired because he could not support a family on the present pay. I am aware of the fact that many of the level 5 employees of the Federal Government, and those just below level 5, are planning to leave employment in the Government because Congress is unwilling to take care of them.

Now, what is going to happen? What is going to happen is that if we vote this down, the pressures are not going to let up. Every man and woman who is affected by this measure in the executive and judicial branches of the Government is going to continue to cite the hardships on him or her, and Congress is only going to have to, at some future point, rectify this injustice.

It would be a more popular thing for me to stand here, as a Senator, or party leader, or whatever, and simply go along with the idea and say, "We do not want the pay increase." To my mind that is not what Senators are saying here in the cloakroom. That is not what is being felt in many quarters. And I think we ought to stand up and say that we are either worth what we are receiving or we are not worth it.

I have never known a Member of Congress to be defeated in running for Congress for voting for a pay increase for Federal employees, including his own. He has to stand up and prove he is worth it. I am a member of the board of directors of this Republic, and I represent 12 million stockholders. They have every right to hold me strictly to account, and indeed they do, but I think they want me to be fair to the employees. I think they would say, "Well, if you are going to defer your own pay increase for a year, that is a foolish thing to do, but it is all right with us. We do not care when you get paid, but we do care when we get paid." I think we are really working a colossal injustice on those whom we propose to pay, or whom the commission proposes to permit to recoup some of their losses.

When the last pay increase went through, gasoline was about 35 cents in different parts of the country for the level 5 employees, for example, and everybody else. Many cuts of meat were sold at 60 cents, 80 cents, and 90 cents, as against $3 and $4 a pound now. Milk was about two-thirds what it is now. I think some of the Betty Crocker products in the cake line have not gone up very much. So what we are saying is that because prices for milk, gasoline, meat, and other things have gone up, but cake has not gone up so much, let them eat cake.

I am not going to be a party to this. I am getting used to being criticized. I am getting used to being on the unpopular side so much lately that I guess taking one more burden on my back is not going to sink me. I think it is wrong, and, by golly, I am going to say so. I am going to say it out loud. I was tempted to sit here and let the Senator from Alaska and the Senator from Hawaii take the heat, but I am not going to do it.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I yield.

Mr. STEVENS. I do not want to leave the impression that I am taking any heat. I agree with what the Senator is saying. I know the Senator from Montana believes what he is saying. He has been very open and public about his feeling. What has disturbed me about some of our people, not only this time but in 1969, is that they said they wanted it but that they could not vote for it. That is Watergate. That was because people said one thing and did another and others stood by and did not say a word about it. Some time we are going to get away from the concept of political expediency.

The Senator from Montana says, "You know, anyone can go home." I may end up going home because of some of the things I am going to do in the next 4 or 4½ years, but I am not going to go along with a concept on the floor of the Senate which is based upon the fact that some people want you to do something and urge you to do it but do not have the guts to do it themselves. That is going to have to stop, because the American people are going to realize what they are doing. That is why we are rated at 21 percent. It is not because we stand up and say that we think we ought to have a pay raise. Others, like the Senator from Montana, say they do not deserve it. I have great respect for his opinion. I happen to disagree with it.

I think we ought to have the best brains that come out of the law schools of this country on the bench. I do not think we are going to get them without a pay increase after 5 years of inflation in this country. I do not think we would have competent men on a public corporation for the exploration of oil and gas, which has been proposed, at the same time the Senate takes action which, in effect, says

that no public servant is worth more than $36,000 a year. I disagree with that. If a public oil exploration corporation were created, it would have to compete with international oil companies, under the one proposal that has been made. We have a railroad that we started, or at least are keeping going, and not one of the men in that organization is, in the opinion of those who oppose these raises is worth more than $36,000 a year, despite inflation.

Mr. HUGH SCOTT. Mr. President, if the Senator will yield further, I want to put some realism in this thing if I can. I want to restate my position. If Members of Congress are fearful of what the public will do because they have their pay raised, let it go over until next year. I think it is the wrong thing to do, but let it go over. That is all right. But at least let us be fair to the rest of the people. Let us see them get at least some recoupment for all they have lost for 6 years.

What is involved here? Under the Senator from Alaska's proposal, it is $4.2 million for this fiscal year. Not long ago, just a few weeks ago, a rocket went up, misfired, and fell back to earth——

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I just want to point out that it cost $18 million for that rocket. This is less than one-fourth of the cost of one missile that we pooped away. That is what we are talking about for the fiscal year—$4.2 million. We blew $18 million in about 5 minutes. And in the Vietnam war we blew away every day enough to pay for many things, and in 4 days we fired up enough to pay everybody for the increase in this particular year.

Now I am prepared to yield to the Senator from Montana.

Mr. MANSFIELD. I wanted to ask the Senator whether he said $4 million or $4 billion.

Mr. HUGH SCOTT. $4.2 million for this year.

Mr. MANSFIELD. Does the Senator recall what the total civilian payroll for the Government is?

Mr. HUGH SCOTT. I do not have that figure before me now.

Mr. MANSFIELD. $64 billion, and that includes——

Mr. HUGH SCOTT. That includes the Armed Forces, of course.

Mr. MANSFIELD. Of course. Exclusive of the Armed Forces, I think the figure would be somewhere around $34 billion. I think those figures mean something.

I would point out that, despite all the oratory on the part of those who are in favor of the pay raise, they are not the only ones wearing white hats. I for one do not find fault with the judgment of any Member of the Senate, be he for or against the pay raise, because I do not think any Senator is so craven in his thinking.

Mr. STEVENS. Mr. President, may I inquire what the time situation is?

Mr. HUGH SCOTT. I will not use any more time. I think I have made my point to the Senator from Alaska. What I am really saying is we will have to do this all over again if we do not do it now.

The ACTING PRESIDENT pro tempore. The Senator from Alaska has 4 minutes remaining. The Senator from Idaho has 15 minutes.

Mr. HUGH SCOTT. Mr. President, I thank the Senator from Alaska for yielding to me.

Mr. CHURCH. Mr. President, the distinguished minority leader has said that at least 70 percent of the Senators would like to have a pay raise.

Mr. HUGH SCOTT. Mr. President, the Senator is very modest. I would say that it would be 80 percent.

Mr. CHURCH. I would say perhaps 100 percent or something very close to it.

I have no disposition to argue the point. I would like to have a pay raise too. But I do not believe that is the issue at hand. And I do not think that Senators who vote against the pay raise, even if they might like to have it for themselves, should be branded as hypocrites. The fact of the matter is that there are other considerations besides whether or not we would like higher pay.

The Senator from Pennsylvania says that the proposal of the Senator from Alaska would only cost $4.2 million. However, that is for congressional pay costs alone. The Senator does not take into account the cost of the pay raise for the judicial and executive branches which would be over $30 million. And he does not take into account the principal effect of lifting the lid, which is to permit all Federal salaries to rise.

The total cost of such an action is not to be counted in the millions of dollars, but in the billions of dollars.

Mr. STEVENS. Mr. President, would the Senator yield?

Mr. CHURCH. I would like to finish my statement first, and then I will yield.

Mr. STEVENS. The Senator has made an inaccurate statement that I would like to correct.

Mr. CHURCH. In that event, I yield to the Senator from Alaska.

Mr. STEVENS. The Senator from Pennsylvania is exactly correct. The cost of my amendment for this year would be $4.2 million for all officers covered. I have placed the figures on the cost of this proposal on the desk of each Senator. The cost would be $4.2 million for 1974, $25.8 million for 1975, and $44.2 million for 1976 and thereafter.

Mr. CHURCH. Mr. President, I am glad to have those figures clarified. However, they do not go to my major point which has to do with the indirect costs that inevitably follow, once we lift the lid off the top salaries in Government.

The question is, given the state of the economy today, given an inflation that is out of control, and given the continuing deficit spending by the Federal Government which fuels that inflation, can we at this time justify lifting the lid on the entire Federal payroll? For that is what we would be doing.

I say that we cannot. If that is "politics," as the Senator from Alaska has charged, then I say it is high time we put the question of top-pay raises back into politics. It is, after all, a political question.

I have served in the Senate for nearly 18 years. I have seen precious little self-restraint displayed in either the Senate or the House of Representatives when it comes to the size of our own offices and our own staff payrolls.

The only restraint I have noticed is a brick-and-mortar restraint. Our staffs would be even larger, and the payroll even bigger, if we had the space in which to put the people. It is only the fact that there is no more space left that imposes a modicum of restraint on Congress in this regard. Parkinson's law rules on the Hill as it does downtown, except as it may be affected by the lack of space—not because of the reluctance Congress. And the same can be said for the way in which we treat the Federal bureaucracy.

I cited the other day an analysis that has been made of the Federal payroll. Congress has been most generous to the Federal bureaucracy. Every time a pay raise comes before us, we grant it. As a matter of fact, in the last 10 years Federal pay scales have more than doubled, rising well ahead of the pace of the inflation. And, except for the very highest officials in the Government, where we will never achieve comparability, Federal pay scales now are not only comparable with the pay of people outside the Government, but generally better than the pay being received in private business for comparable work.

So, can it honestly be said that we are depriving the best-paid people in Government of their just deserts, that we are being unfair to them?

I recognize that the people at the top face inflation, like everyone else. But these people are already getting an income in the top percentage of the incomes received by the people of the country; these people who are already receiving better pay than 99 percent of the American people.

Mr. President, in addition to the job security, civil servants have very generous pensions and many other fringe benefits. So, if we take the position, as some of us do, that in view of the precarious state of the economy, now is the time for Congress to exercise some restraint, and hold the line on the salaries being paid to the topmost officials in the Government, I think there is a good reason for it.

It has been charged, in the course of this debate, by the proponents of higher pay that we who oppose them are succumbing to politics. I would like to examine that argument for a moment.

I disagree with the Senator from Alaska in his assessment of the reasons why the Presidency and Congress are today held in such low esteem by the people. I assure the Senator that it is not because the people feel that we are afraid to pay ourselves more money. It is because the people feel that neither the Congress nor the Nixon administration is effectively coming to grips with their problems. It is because the people feel that we have not earned more pay.

For the last 2 years, those engaged in the dialog concerning popular disenchantment with Government, liberals and conservatives alike, have endlessly pointed to the unresponsiveness of Government, its insensitivity to the felt needs of the people, its remoteness, its indifference, indeed its arrogance.

How many times have we seen in the polls that the people feel helpless, because they sense that the Government is not paying any attention to them?

Certainly that is true of the Federal bureaucracy, so entrenched in its own security that it becomes increasingly indifferent to administration for the convenience of the people.

Certainly it is true of the White House where the exclusive concern centers on keeping Mr. Nixon in office against the rising tide. Even the silliest of spats between Federal agencies go unresolved because there is no executive direction left.

Still, we are told, in the face of this, that to oppose increasing our own pay and that of the best paid people in Government is succumbing to politics.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. MANSFIELD. Mr. President, ever since the time of the French Revolution, we have heard the press referred to as "the fourth estate." I am afraid that the bureaucracy of this country is becoming so large and so overwhelming that it is impossible for any administration or any Congress to be able to determine just what is going on among the permanent officials in that fourth branch of the Government, and the result is that there are highly paid people down there, who would come under this bill, who are able to determine by their own definition the intent and the application of a law passed by Congress.

I think that the Federal bureaucracy is getting out of hand. It is too big. It is too widespread. It has too many tentacles spreading into every State of the Union, and I think it is about time that we started to bring about a diminution of that overgrown body of personnel, costing the Government in excess of $10 billion a year.

I point out that one way a reduction in the civil service could be brought about, and I have suggested this to the last three Presidents, is to decrease the number when resignations, retirements, or deaths occur, so that there would be no filling of the vacancies there are.

The Senator from Idaho is correct. Parkinson's law applies not only up here—as it certainly does—but it applies downtown. They have been building empires on empires. And compared with their counterparts here, I think they come out ahead.

When I first came to Congress 32 years ago that was not the case, but I think comparability has gone out of bounds, and what we have lost sight of is the doctrine of equality, which was the intent of Congress when this program began, to bring about an achievement of equality between employment in and outside the Government.

So I do not think this is politics. I think the people expect us to set an example, and I think 5 years ago we set a poor example when we raised the salaries of the Justices of the Supreme Court and the Cabinet officers way beyond the salaries of Members of Congress.

In my opinion, the Members of Congress, outside the President, are the most important members of this Government. Why? Because we have to go home and face the people. We have to give them an accounting. We have to make the laws and we are accountable to our constituencies.

I do not want to see Congress, especially the Senate, sold short, but I do think that we have an obligation at this particular time of high inflation, increasing unemployment, and the energy crisis, and difficulty within the administration based on Watergate, to furnish some kind of an example. If Congress will not furnish that example to the people of this country, who will?

Mr. CHURCH. That is the question, Mr. President. Who will? Is there any branch of Government left that remains responsive to the public feeling? Let there be no doubt about it: Go out among the people, where the median income is less than $10,000 a year, and tell them about the hardship which forces us to increase our salaries, when we are already in the first percentile of incomes in the country, and you will soon find out how the public feels. And they are waiting for someone in Government to give some credence to their feelings.

If that be politics, make the most of it.

I thought that was what this Government was all about. I thought that was what Congress was all about, that our primary responsibility was to the people, not to the bureaucracy, or the executive, or the courts, but to the people who send us here to keep their interests in mind. If we do not do so, rest assured that no one else will.

The ACTING PRESIDENT pro tempore. The time of the Senator from Idaho has expired.

Mr. STEVENS. Mr. President, in the short time remaining, I can only say that my colleagues from Idaho and Montana have demonstrated why there should not be cloture, why we should not be voting to shut off debate on a bill which affects so many people in so many varied ways.

It is an interesting thing to hear a Senator say, as the Senator from Idaho says, that we should represent the people—the people who sent us here and sent our predecessors here who voted for this bill in 1967. They were representing the people, and they passed this new mechanism to take the pay raises out of politics, to take them out of election-year demagoguery.

When it comes right down to it, I think the odds are that this debate will cease, that there will be no change, and that the resolution of the Senator from Idaho disapproving all pay raises will go into effect.

What happens then? The next President will appoint a commission—because I am certain this President will not appoint another one if his recommendations are turned down. I would not, if I were he. That commission will report back, and 1978, once again in an election year, Congress will face the question of a pay raise for the executive, legislative and judicial branches.

Our colleague from Hawaii (Mr. FONG) attempted to answer the point the Senator from Idaho raised yesterday, and raised again today, that we are taking the lid off. But I think the important thing for the people of this country to look at is what the Senator from Montana said.

He said,

> We have unions out there that are going to look for pay raises this year.

The Senator from Idaho says there are people below these people in grades 16 and 17 that are going to want pay raises, that if we bring about justice for those who for 5 years have not had any pay raises, they are going to ask for justice, too.

I say to my good friend from Idaho, I thought that is what this country was all about, equality and justice for everybody. We have passed four pay raises for people in civil service, but there are people in grades 18, 17, 16, and now 15 who have not received those pay raises we passed for the last 4 years. Why? Because of an arbitrary level established by Congress that brings about compression. Now there are 127,000 people in GS–12, 99,600 in 13, and 46,000 in 14, all of whom will be affected by compression before the Senate can act on this matter, unless we allow the Salary Act of 1967 to work.

I, unfortunately, have no ability to separate, as I am informed now, the resolution of the Senator from Idaho. I thought that I had, but I find I have not, and if cloture passes, there is only one thing to do, and that is again to try to seek a compromise. But, again stating my respect for the Senator from Montana, I say again, the decision not to have this matter fully explored on the floor, the decision to have a cloture vote after 4 hours of debate, represents, in my opinion, for the first time in the whole tradition of the Senate, when not more than two Senators have been able to speak substantively as members of the committee which handled the bill on the floor of the Senate and then for a total of only 4 hours. We have had two amendments, by Senators MCGEE and FONG, and that is all. That is the only exploration we have made, so far as any attempt to reach a compromise is concerned.

Mr. MCGEE. Mr. President, the Director of the Bureau of the Census, the Chief of the U.S. Forest Service, the Director of the National Park Service, Director of the Smithsonian Institution, Director of the Bureau of Mines, Commissioner of Labor Statistics, and the Associate Administrator for Manned Space Flight of the National Aeronautics and Space Administration all have something in common. They are Level V Government executives.

As such, they are paid at an annual rate of $36,000. So, too, are many of their subordinates in the career service at grades GS–16, 17, and 18, and even at the top of GS–15. Right there, we see the possibility of having five reporting levels in one office all being paid at the same rate and constituting what I believe any competent management analyst would agree is an administrative and motivational quagmire.

What is more, these men are underpaid. Certainly, those who administer programs of major social, scientific and economic importance are, in terms of the

marketplace, being paid significantly less than similar responsibilities would earn them in the private sector. But they are captives to the system that ties their pay to that of the Congress. Or, as the Washington Star-News put it in an editorial just yesterday:

The unfortunate thing about it is that the pay of 10,000 top Federal career officials is hostage to the silly and somewhat hypocritical antics Senate and House members go through every time the subject of congressional pay comes up.

Already, the quadrennial review of executive, legislative, and judicial salaries which has so unnecessarily occupied the time and attention of the Senate is a year late. The effect of the White House's delay in appointing the commission to make the study has been to thrust the issue into an election year and thus make the reluctant even more so.

But, Mr. President, the truth is that we have a problem in Government service with regard to fair and comparable pay for individuals assigned major responsibilities. Like Members of the Senate and the House, their pay last was raised 5 long years ago. Their real income has dwindled and eroded under the pressure of inflation and rising prices. Sure, $36,000 a year—or $42,500 a year for that matter—is by most standards a handsome salary. But it is not what it was 5 years ago, in 1969.

The Star-News, in its editorial, suggests legislation be passed separating the pay of top careerists from that of Members on a permanent basis. Others, myself among them, also are examining the effect of unifying the systems. In both instances, the idea is to get some rationality into the salary system for high Government posts. Our actions so far this week would indicate that rationality is sorely needed.

The Star-News—and I thank its editors—also suggests that a one-shot 5.5-percent raise, equal to the Federal wage guideline for private employers, could stand as a reasonable alternative at this time. As my colleagues are aware, I thought so, too, until Monday afternoon at any rate.

Mr. President, I ask unanimous consent that the Star-News editorial I have referred to in these remarks be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Star-News, Mar. 5, 1974]

PAY RAISES

By midnight Saturday, members of Congress will either have a pay raise or they won't, depending on whether their desire for more money prevails over their traditional reluctance to fatten their paychecks during an election year. The unfortunate thing about it is that the pay of 10,000 top federal career officials is hostage to the silly and somewhat hypocritical antics Senate and House members go through everytime the subject of congressional pay comes up.

At least 95 percent of the members want a pay raise and believe they are justified in having one. Yet the presumed or real fear of losing votes back home creates all sorts of maneuvers. Some oppose any raise. A few brave soûls stand up and declare they are deserving. Others want to compromise, figuring that a little something extra won't stir the voters too much.

The fact is that Congress hasn't had a pay raise for five years and the full increase proposed by President Nixon (22.5 percent spread over the next three years in 7.5 percent increments) doesn't seem out of line. If they can't bring themselves to approve that much eight months before the fall elections, Senator McGee's one-shot 5.5 percent proposal (the federal wage guideline for private employes) is a reasonable alternative. Voters could hardly object to that, even though polls indicate they don't think much of Congress these days.

If congressmen decide to scrub their own raises altogether, they ought at least to find some way to increase the $36,000 limit now imposed on top federal career executives. Not only has the cost of living increased tremendously the past several years, but their pay has fallen behind salaries for comparable jobs in the private sector.

It is unreasonable to expect these deserving careerists to wait another year for a pay raise. It also is unreasonable to keep salary adjustments for them tied to congressional pay increases, which carry their own set of special political considerations. Legislation ought to be passed permanently separating the two.

Mr. McGEE. Mr. President, the two votes on Monday in which the Senate overwhelmingly defeated compromise amendments on Federal pay offered by Senator FONG and by me represents, in my view, a rejection on the part of the Senate of reasonable means of solving the present pay dilemma. It is obvious for whatever reasons, that the Congress does not wish to come to grips with this question at this time.

The few Members who spoke in support of Senator FONG's amendment and my own outlined very clearly the havoc which is being wreaked upon the Federal pay structure by the unwillingness of Members to budge an inch in granting even a token pay increase to Federal officials who have seen their disposable income diminish year by year since 1969 as inflation has substantially diminished the purchasing power of their salaries.

If the Senate had chosen to allow the one-time, 5.5-percent cost-of-living increase which I proposed, it would have, in effect, been providing only 1.1 percent per year since 1969 for those officials involved, a pittance when compared with the ordinary cost-of-living raises to which every wage earner has become accustomed in recent years.

I will not cite the figures indicating the cost-of-living increases since 1969, running well over 30 percent, which have been received in the private sector and by some employees of the Federal Government. These telling figures and the patent unfairness of denying a pay increase now were clearly spelled out in Monday's debate. So I will not labor that point. I can only express my deep disappointment over the results of those two votes, my thanks to those who voted to give some relief to Federal officials relying upon the Congress, and my determination to continue this fight until equity is achieved.

On February 25, I warned the Senate that however the matter of the President's pay recommendations was disposed of, the basic problem would remain. It is a problem which will not go away. I am particularly determined, after seeing the results of Monday's vote, to do everything I possibly can to bring relief to those who are suffering under pay-setting procedures which are unfair, unjust, and apparently intractable to any rational resolution as long as the present mood of the Senate prevails.

To emphasize my warning to the Senate, I introduced S. 3049, a bill to provide a unified system of pay adjustments for civilian officials and employees of the Government. As Members are aware, statutory employees, under the comparability principle, usually receive every year pay adjustments following by 6 months the pay adjustments of the private sector. Members of Congress, Federal judges, and Cabinet and subcabinet officials are accorded pay consideration only once every 4 years. As the pay of the latter group lags, compression builds up in the upper reaches of the general schedule and a totally intolerable pay situation has come to exist—a situation in which significant groups of high-echelon Federal officials, reporting one to another, all receive the same pay. We have been warned of the results of this—Federal employees in the executive branch are leaving in appreciable numbers, retiring and finding jobs with no income ceilings; Federal judges are foregoing liberal retirement benefits and moving into private practice; and, even here on Capitol Hill, we are seeing some top staff seek greener pastures elsewhere.

My bill would combine these two separate and conflicting pay procedures. It would provide that comparability pay adjustments for statutory employees would continue each fall, and the President would also recommend each year at the same time appropriate pay recommendations for Members of Congress, Federal judges, and Cabinet and subcabinet officials.

The comparability principle does not apply to the latter group. Accordingly, the President's recommendations would be based largely upon cost-of-living increases. Thus, a way out of the compression dilemma will be opened. I am not wedded to the provisions of this bill. Should executive, judicial, and legislative salaries come up for consideration every year? Should their pay be tied to the cost of living? Perhaps some salaries should be subject to collective bargaining. Perhaps Members of Congress should no longer be included in Presidential recommendations and their pay set catch-as-catch-can by regular congressional pay hikes as in the old days. I have my own position on some of these questions, but in public hearings, I intend to solicit the views of every responsible individual or institution willing to testify—taxpayer groups, Members of the Senate and House who believe that certain segments of the Federal Government population must be singled out for frugality and sacrifice, labor organizations, organizations of lawyers and others interested in viable pay scales for the Federal judiciary, and citizens who are horror stricken by the idea that a Member of Congress is worth more than $42,500 a year. I expect to elicit the testimony of the Civil Service Commission, the Office of Management

and Budget, individual employees in grade GS–18 who have been denied a pay increase for 5 years, and, possibly, even middle-management employees who can see little benefit in being promoted into positions of higher responsibility which offer no monetary inducement.

I will be particularly interested in the views of those who say the folks back home unalterably oppose pay increases for Members of Congress. I would like to ask them whether they will work with the committee in arriving at a long-term solution to a question which, at the moment, is highly charged and fraught with emotion. It is my strong hope that in the end, reason will prevail and that there will emerge from the Senate a rational and workable measure voted upon in a spirit of accommodation and in recognition that this problem simply cannot be postponed much longer.

ENERGY EMERGENCY ACT—VETO MESSAGE FROM THE PRESIDENT (S. DOC. NO. 93–61)

The ACTING PRESIDENT pro tempore (Mr. NUNN). The Chair lays before the Senate a veto message from the President of the United States on S. 2589, the Energy Emergency Act, which will be spread upon the Journal and will be considered by the Senate at 3 p.m. today pursuant to the previous unanimous-consent agreement.

The text of the President's message is as follows:

To the Senate of the United States:

It is with a deep sense of disappointment that I return the Energy Emergency Act to the Congress without my approval.

For almost four months the Congress has considered urgently needed legislation to deal with the Nation's energy problem. After all the hearings and speeches, all the investigations, accusations and recriminations, the Congress has succeeded only in producing legislation which solves none of the problems, threatens to undo the progress we have already made, and creates a host of new problems.

I share the sense of frustration and discouragement which must be felt by the many conscientious legislators who spent so many laborious hours trying to draft a responsible bill, only to see their efforts wasted.

ROLLING BACK GAS SUPPLIES

The Energy Emergency Act would set domestic crude oil prices at such low levels that the oil industry would be unable to sustain its present production of petroleum products, including gasoline. It would result in reduced energy supplies, longer lines at the gas pump, minimal, if any, reduction in gasoline prices, and worst of all, serious damage to jobs in America. Unemployment would go up, and incomes would go down.

Certainly everyone shares the goal of increasing energy supplies, and our present policies are directed toward this end.

We now have a system for controlling crude oil prices at a level consistent with maintaining and increasing production. To do this, we are permitting higher prices for "new" crude oil in order to encourage greater domestic production.

Our experience in administering the crude oil allocation program passed by the Congress last fall has shown how difficult it can be if enough flexibility is not provided by statute. It is our hope that we can work with the Congress in the coming weeks to develop a more flexible allocation program.

The net effect of the price provision of the Energy Emergency Act would be to cut the supply of gasoline and other oil products, and make compulsory rationing of gasoline much more likely. I am sure the vast majority of Americans want to avoid an expensive gasoline rationing program which would do nothing to increase the supply, would cost $1.5 billion a year to manage, would require a bureaucracy of as many as 17,000 people, and would create problems of fairness and enforcement.

The rollback would not only cut domestic oil production, but would also retard imports since in the present environment oil companies are reluctant to import oil and gasoline that would have to be sold at prices far above the domestic prices.

Further, the effects of the price rollback would not be confined to the immediate situation. The longer-run consequences could be even more serious. If we are to achieve energy independence, hundreds of billions of private dollars will have to be invested in the development of energy from U.S. sources. This money will not be invested if investors do not have reasonable assurance of being able to earn a return in the marketplace. To make the price of oil a political football, as this act does, would be a serious setback for Project Independence.

As we call upon industry to provide these supplies, I feel very strongly that we must also insure that oil companies do not benefit excessively from the energy problem. I continue to believe that the most effective remedy for unreasonably high profits is the windfall profits tax which I have proposed. That tax would eliminate unjust profits for the oil companies, but instead of reducing supplies, it would encourage expanded research, exploration and production of new energy resources. The Congress is holding hearings on this proposal, and I hope it will move rapidly toward passage. I urge the Congress to enact this windfall profits tax as quickly as possible.

OBJECTIONABLE PROGRAM FOR UNEMPLOYMENT

Beyond the rollback provision, the Energy Emergency Act is also objectionable because it would establish an unworkable and inequitable program of unemployment payments. Under it, the Government would be saddled with the impossible task of determining whether the unemployment of each of the Nation's jobless workers is "energy related." In addition, eligibility for these benefits would not take into account the availability of jobs in the area. There is no excuse for shoveling out the taxpayer's money under a standard so vague and in a fashion so arbitrary.

The correct answer to the problem of those who become temporarily unemployed for any reason, energy or otherwise, is to strengthen our regular unemployment insurance program, extend it to workers not now covered, and provide additional benefits to those who lose jobs in areas where high unemployment rates show that other jobs will be hard to find. I asked the Congress to strengthen and extend the unemployment insurance system last year. I recently expanded this request to provide additional benefits in areas of high unemployment.

I urge the Congress to enact this latest, expanded proposal.

LOW INTEREST LOANS

In addition, this legislation contains authority for the Department of Housing and Urban Development and the Small Business Administration to make low interest loans to homeowners and small businesses to finance insulation, storm windows and heating units. If every eligible homeowner and small businessman took advantage of this section, the result could be an outlay for federally-guaranteed, low interest loans of many billions of dollars. The actual energy savings produced by these vast expenditures would not justify such an enormous loan program.

FACING UP TO OUR NEEDS

The energy shortage has been a pressing problem for the American people for several months now. We have made every effort to soften the impact of this problem. We have come through this winter without serious hardship due to heating oil shortages. We have tried to distribute gasoline shortages equally. Many are concerned about rising costs of such energy supplies as propane, and we have taken action to reduce these prices while continuing to increase supplies. Above all, we have tried to insure that basic industries would not be severely affected and that unemployment due to the energy shortage would be kept to a minimum. We have been largely successful in these endeavors. But we must be able to approach this situation in a systematic fashion that aims not at symptoms, but at solutions to the problem itself.

The time has passed for political debate and posturing that raise false hopes. It's time for all of us to face up to this problem with a greater sense of realism and responsibility.

Unfortunately, there are some who have chosen to capitalize on the Nation's energy problems in an effort to obtain purely political benefits. Regrettably, the few who are so motivated have managed to produce the delays, confusion, and finally the tangled and ineffective result which is before me today. The amendments, counter-amendments, and parliamentary puzzles which have marked the stumbling route of this bill through the Congress must well make Americans wonder what has been going on in Washington while they confront their own very real problems. We must now join together to show the country what good government means.

We need the authority to require energy conservation measures. We need the direct authority to ration gasoline if, and only if, rationing becomes necessary, which it has not. We need the authority

to require conversion of power plants, where possible, to permit the use of our abundant coal reserves. We need a well-conceived Federal Energy Administration capable of managing national energy programs and not the woefully inadequate Federal Energy Emergency Administration mandated in S. 2589.

We must, above all else, act to increase our supplies of energy. To meet this important goal, I have submitted to the Congress a comprehensive package of legislative initiatives which I have repeatedly urged the Congress to pass. I have offered every possible kind of cooperation with the Congress in shaping this vital legislation.

In addition to my requests for a windfall profits tax and unemployment insurance plan, the Congress has many other Administration proposals before it, including:

—Mandatory reporting of energy information, a proposal which requires energy companies to report on inventories, production, cost, and reserves with information to be made public in most cases.

—The Natural Gas Supply Act to allow competitive pricing of new gas supplies and encourage exploration.

—A resolution permitting limited production of oil from Naval Petroleum Reserve # 1 (Elk Hills) and providing funds for further exploration and development of Reserve # 1 and exploration of Reserve # 4 (Alaska).

—The Mined Area Protection Act, establishing standards that would permit mining of coal to go forward while minimizing environmental impact.

—The Deepwater Port Facilities Act, authorizing the Secretary of the Interior to grant permits for the construction and operation of ports beyond the three-mile limit.

—The Minerals Leasing Act, placing all mineral exploration and mining activities on Federal lands under a modernized leasing system.

—A drilling investment tax credit to provide an incentive for exploratory drilling for new oil and gas fields.

—Creation of a Federal Energy Administration to deal with the current energy problem and to carry out major new activities in energy resource development, energy information and energy conservation.

—Creation of an Energy Research and Development Administration to provide a central agency for Federal energy research and development programs.

—Creation of a Department of Energy and Natural Resources to provide a new Cabinet department for the comprehensive management of energy and natural resource programs.

Further key measures will be proposed to the Congress in the very near future, including a set of amendments to our environmental legislation that would provide the flexibility necessary to acquire and use our fuel resources most efficiently in times of shortage. I will continue to propose legislative initiatives in order to respond to the changing needs and priorities generated by the energy problem.

In enacting this Energy Emergency Act after long months of waiting by the American people, the Congress has sadly failed in its responsibility. I believe the Nation expects better. It deserves better.

In returning this bill, I pledge once again the full cooperation of my Administration in the effort to provide energy legislation which is responsive to the problems we face and responsible in its impact on the economy and on the American people.

RICHARD NIXON.

THE WHITE HOUSE, *March 6, 1974.*

CLOTURE MOTION ON SENATE RESOLUTION 293

The ACTING PRESIDENT pro tempore (Mr. NUNN). Under the rules of the Senate, the Senate will now proceed to the cloture vote. The clerk will state the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon Senate Resolution 293, to disapprove the pay recommendation of the President with respect to rates of pay for Members of Congress.

Mike Mansfield, Quentin Burdick, Frank Church, George D. Aiken, Harold E. Hughes, William Proxmire, Gaylord Nelson, Robert Packwood, Peter H. Dominick, Robert C. Byrd, Henry M. Jackson, James A. McClure, William Roth, Jennings Randolph, Harry F. Byrd, Jr., George McGovern.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 53 Leg.]

Aiken	Fong	Nunn
Allen	Griffin	Randolph
Baker	Helms	Ribicoff
Bellmon	Hruska	Scott, Hugh
Byrd, Harry F., Jr.	Mansfield	Stafford
Byrd, Robert C.	McClure	Stevens
Church	McGee	Taft
Eagleton	Metzenbaum	Talmadge
Ervin	Mondale	Thurmond
	Nelson	Tower

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

After a delay, the following Senators entered the Chamber and answered to their names:

Abourezk	Bentsen	Buckley
Bartlett	Bible	Burdick
Bayh	Biden	Case
Beall	Brock	Chiles
Bennett	Brooke	Clark
Cook	Hollings	Packwood
Cotton	Huddleston	Pastore
Cranston	Hughes	Pearson
Curtis	Humphrey	Pell
Dole	Inouye	Percy
Domenici	Jackson	Proxmire
Dominick	Javits	Roth
Eastland	Johnston	Schweiker
Fannin	Kennedy	Scott, William L.
Fulbright	Long	Sparkman
Goldwater	Magnuson	Stennis
Gravel	Mathias	Stevenson
Gurney	McClellan	Symington
Hansen	McGovern	Tunney
Hart	McIntyre	Williams
Hartke	Metcalf	Young
Haskell	Montoya	
Hatfield	Moss	
Hathaway	Muskie	

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The ACTING PRESIDENT pro tempore. A quorum is present.

VOTE

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, a rollcall has been had, and a quorum is present.

The question before the Senate now is, Is it the sense of the Senate that debate on Senate Resolution 293, a resolution to disapprove pay recommendations of the President with respect to rates of pay for Members of Congress, shall be brought to a close?

The yeas and nays are mandatory.

The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate during this rollcall?

The ACTING PRESIDENT pro tempore. Senators will please take their seats. Those Senators carrying on conversations will please go the cloakroom. The Senate will be in order.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The yeas and nays resulted—yeas 67, nays 31, as follows:

[No. 54 Leg.]

YEAS—67

Abourezk	Eastland	McGovern
Aiken	Ervin	McIntyre
Allen	Fulbright	Metzenbaum
Bartlett	Goldwater	Mondale
Bayh	Gurney	Montoya
Bellmon	Hansen	Muskie
Bentsen	Hartke	Nelson
Bible	Haskell	Nunn
Biden	Hatfield	Packwood
Burdick	Hathaway	Pastore
Byrd, Harry F., Jr.	Helms	Pell
Byrd, Robert C.	Hollings	Percy
Chiles	Hruska	Proxmire
Church	Hughes	Randolph
Clark	Humphrey	Ribicoff
Cook	Jackson	Roth
Cranston	Johnston	Schweiker
Curtis	Long	Stennis
Dole	Magnuson	Stevenson
Domenici	Mansfield	Symington
Dominick	Mathias	Taft
Eagleton	McClure	Talmadge
	McGee	

NAYS—31

Baker	Griffin	Scott, William L.
Beall	Hart	Sparkman
Bennett	Huddleston	Stafford
Brock	Inouye	Stevens
Brooke	Javits	Thurmond
Buckley	Kennedy	Tower
Case	McClellan	Tunney
Cotton	Metcalf	Williams
Fannin	Moss	Young
Fong	Pearson	
Gravel	Scott, Hugh	

NOT VOTING—2

Cannon Weicker

The ACTING PRESIDENT pro tempore. On this vote the yeas are 67 and the nays are 31. Two-thirds of the Senators present and voting having voted in the affirmative, the motion is agreed to.

Each Senator has 1 hour of debate.

The Senator from Wyoming is recognized.

Mr. McGEE. Mr. President, what is the parliamentary situation in regard to the procedure after cloture has been voted?

The ACTING PRESIDENT pro tempore. The pending question is on agreement to the amendment of the Senator from Idaho.

Mr. McGEE. Mr. President, I want to make one declaration here in behalf of the Post Office and Civil Service Committee. In my judgment the Senate has expressed its will at all levels. Everyone has had a chance to be counted on all issues present in this question.

I want to say now, therefore, that the Post Office and Civil Service Committee will very soon, this spring, begin a series of hearings on this question. We will look toward revising the law, updating the law, abolishing the law, enriching the law, or doing whatever is required to come to grips with this question.

I do not have to repeat the shortcomings we find ourselves in this morning. I would hope that we would have out of the legislative committee a frontal attack on the apparent problems so that they might be resolved, no later than next January. It is the hope that anyone with any expertise, bias, or druthers on the matter will have testified before the committee.

We intend to have people from the Office of Management and Budget, the administration, the Civil Service Commission, consumer groups, taxpayer groups, and our constituents. We want input. We are looking now for what we should do, because it will be worse next year and the year after than this year with respect to the problem of the Federal pay structure. We are asking for your help. We will undertake very substantial studies and hopefully make legislative recommendations on this problem.

Mr. FONG. Mr. President, will the Senator yield?

Mr. McGEE. I yield to the Senator from Hawaii.

Mr. FONG. Mr. President, as the ranking minority member of the Post Office and Civil Service Committee, I join with my distinguished chairman in saying that I will do everything possible to have hearings held on the pay issue. What I am concerned about is the 28,000 Government employees that will be hitting the ceiling by 1978 if we do not do anything now. At the present time 9,704 Government employees are at the ceiling. If we want to keep our own pay out of the matter, that is perfectly all right, as Members of the Congress.

There are 9,704 Government employees at three levels who all receive pay of $36,000. In other words, boss No. 1, boss No. 2, and boss No. 3 all receive $36,000. If we do not do anything now, it will be another 4 years before we will have a quadrennial commission recommend a salary increase to the President and the Congress. By that time there will be another 19,000 Government employees in the statutory system who will be hitting the ceiling of $36,000. In other words, at that particular time, 4 years hence, when the quadrennial commission recommends a salary increase, instead of three levels of supervisory employees receiving $36,000, we will have six levels. We will have almost all of the GS–15, 16, 17, and 18 receiving $36,000 plus some GS–14's. For example in the Patent Office, the Patent Commissioner appeared before the Judiciary Committee for his confirmation hearing. We asked him how many of his assistants are receiving the same pay as he is receiving. He said that there were 50 of his assistants who are receiving $36,000, the same pay he is getting.

This is the problem of compression. And I think that if we do not do something now, we will have a crisis in the Federal statutory pay system.

I, therefore, join my distinguished colleague in asking for a quick review of the present situation.

Mr. HUGH SCOTT. Mr. President, I ask recognition on my own time.

Mr. McGEE. Mr. President, I have the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming has the floor.

Mr. McGEE. Mr. President, I am not going to use much time. I only wish to suggest that those who believe that the law on the books now is unwise in any way will not move simply to repeal the law, if that is their wish. I hope that they start quickly to help us find a new approach. This law was honestly calculated to provide an honest judgment and take out all emotional factors.

Any number of Senators have expressed the desire to determine for themselves the congressional pay level. They, therefore, are opposed to the Commission recommendations to the President. It is not enough just to wipe it out. We have to be able to say what we are going to do, how we are going to attack this question. It is not going to be easy just to be against it. We have to come up with something if we are indeed to restore responsibility, the responsibility that goes with the Office of a Senator of the United States.

I think we ought to think of it in those terms. It is the Office that is at stake. And if we are not worth it, the people ought to send someone else here.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. HUGH SCOTT. Mr. President, I think the flaw in our situation has now been demonstrated. We have failed to do justice to others, because of our fear to do justice to ourselves. That is a pity, and it is a tragic situation. I hope that the committee, which has done a splendid job here, will work out a situation whereby justice can be done all around, fairly and equally.

We are saying to the public employees that we are not going to let them have a pay raise because it will look bad if we try to get one for ourselves. And even if we defer it for ourselves, it will still look bad. Therefore, the public employees cannot have it even though they are entitled to it.

Mr. FONG. Mr. President, if the Senator will yield, we do not tell all the Government employees that they will not get a raise. We tell the lower- and middle-level Government employees that we will give them a raise. However, we tell those employees who are in GS–15, 16, 17, and 18 that we will not give them a raise even though all of their salaries are at the $36,000 level. We are saying to all Government employees from GS–1 to GS–14 that they will be given a raise. However, we are telling the employees from GS–15 through GS–18 that they will not get a raise.

What kind of comparability system will we have?

If we are to have comparability, let us not just have comparability for the lower and middle echelons and not for the upper echelons.

Mr. HUGH SCOTT. The Senator is saying that the Senate has screwed up the system. And we have done it through an expertise by which we have denied the obvious and avoided justice and postponed the inevitable. This is good Senate procedure. I have been here for 16 years. There are days when I wonder exactly whom we are misleading.

In any event, I hope that the committee will consider it carefully and I hope that they will consider the cost-of-living increase at all levels.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I will yield in a moment. I believe that this situation is not going to go away. The sooner that the committee can act on this matter the better it will be. We have to find some way of doing this that will permit Senators to stand up and face the situation that confronts us and then do justice to it and go home and take their chances.

Mr. McGEE. Mr. President, I think we have to decide, in our legislative efforts, whether we separate the cost-of-living factor from the salary equity procedure. They are two different things.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McGEE. In just a moment I will yield to the majority leader.

The point of it is that we drafted the existing law on the books in 1967. In those tender years the full impact of the inflationary consequences of the war in Vietnam, and so on, had not really caught up with us and, therefore, we are addressing ourselves to the principle of pay equity in the Federal structure, as well as comparability.

Meanwhile, since 1969, when the last Presidential adjustment was adopted, inflation has run away with everybody's salary position, except that cost-of-living increases were approved by this body

for every sector, totaling nearly 44 percent in both the private sector and the public sector since 1969, except for the top echelon.

It is that inequity that now is pressing down on those with administrative responsibilities, on the Members of this body, on the office that we here occupy, and we are asking for help in time to resolve this kind of a counterproductive direction of the forces at work, first comparability, and second, now, the consequences of 4 years, or almost 5, of inflationary erosion of what once was equity within the system. We have to reestablish the equities, even as we account for the erosions of inflation.

Whether we do that through separate legislation, whether we do it with an automatic formula that goes into effect no matter what happens, as it does with all other segments, or whether we tie it into the pay structure, those are the questions we are going to have to resolve. We are not going to resolve them by waiting until next January, and we are not going to resolve them by looking the other way and leaving it to the committee, because the committee tried to do its work. We tried to be responsible, and our efforts did not square with the judgment and the timing of this present moment.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. McGEE. I have promised first to yield to the majority leader.

Mr. MANSFIELD. Mr. President, let me say first that the committee is to be complimented. This is not the easiest piece of legislation to face up to, and certainly a solution is most difficult to come by. No matter what the chairman and the ranking minority member of the committee did, they were bound to receive a lot of flak.

But I note that the distinguished Republican leader and also the chairman of the committee and others have mentioned the possibility of an increase tied to the cost of living. I would think that would be the most logical, the most feasible, and the most easily attainable way, and I would suggest most respectfully that in view of the fact that the recommendations of the Commission have been turned down, consideration should be given to the abolishment of that Commission, and that the Committee on Post Office and Civil Service consider the enactment of legislation, statutory legislation which all Members of both Houses would have to face up to, for increases based on the cost of living.

I do not see how anyone in any fashion could find fault with that, and it might be a solution to which the distinguished chairman might wish to give consideration.

Mr. McGEE. I thank the majority leader for his comments. We are still stuck with a 30-percent lag already since 1969. We would have to figure out whether that is an historic factor or not, but it does suggest the complexity of the problem.

I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I suspect that the Senator from Alaska may know the answer to the question I am about to put to the Senator from Wyoming. My question is, what do we do next?

Before putting the question, let me say that I think the whole matter of Congress setting its own salary is an abomination. I think it is the granddaddy conflict of interest of all time. I think our Founding Fathers who established this Nation were in fact inspired young leaders, but I think they goofed when they set up a system where we have to set our own salaries. I hope the committee will seek to set up a means of solution of this dilemma which we find ourselves repeatedly facing.

But I ask the chairman of the committee, what do we do next in seeking to solve this problem?

Mr. McGEE. Mr. President, before responding, I yield to the Senator from Alaska, to see whether he can shed any light on the question.

Mr. STEVENS. Mr. President, I do not know whether I can shed any light or not. I think the discussion now taking place indicates rather strongly why the Senate should not vote cloture after 4 hours of debate. Now, apparently, we are going back to the committee and once again seek to do what some members of the Post Office and Civil Service Committee might want to do, or what the majority leader might suggest.

I have two amendments at the desk which have not yet been considered. I do not know whether I will offer them or not, because there is one thing you learn early in politics, and that is how to count.

The Senate today, for the first time in history, has closed off debate after 4 hours, without considering one amendment offered by any member of the committee other than the two ranking members. I think I shall wait and see how many other Senators want to offer amendments before I offer mine, and see whether there is any basis at all for compromise here. There were legitimate areas for compromise on the recommendations of the Executive Commission on Judicial and Legislative Salaries. We explored two. We now have before us a resolution for complete disapproval, from a Senator who is not on the committee, which of course it is entirely his right to offer, but it seems to me that as a member of the committee, if I am going to go back and sit with the chairman again and listen to testimony again, I think we ought to know we are going to have a chance to be heard on this floor before we have a cloture motion and before debate is shut off. I think this is the worst thing I have seen done in the Senate since I have been here. I think every junior Member wants to consider his position on the floor of the Senate, as to whether it really is true that we are equal here in the Senate and everyone's voice is the same.

I cannot answer the question of the Senator from Tennessee. I want to see if anyone else wants to offer amendments, and whether those who have previously supported my position will do so after cloture being voted under these rather strange circumstances.

I note to my friends from the South that this is the first time I have ever seen Senators from the South vote for cloture on the first vote after 4 hours of debate. I think there will be many of us who will remember that for a great length of time.

Mr. McGEE. Mr. President, in response to the remarks of my colleague from Alaska, a distinguished member of the committee, I say there is no intention to suppress other amendments. As the Senator knows, we only took a reading on two, to try to arrive at some kind of compromise, hopefully, over the weekend, which could be obtained by an up or down vote.

The remarks I have just made should not be construed to preclude any kind of amendment. I was only outlining a course ahead, because whatever the Senator offers by way of amendments will not solve the whole question. It will have to be an expedient to help solve part of it, and I think the whole problem is much more complex than we can resolve here, no matter how lengthy the debate. And in all fairness to the balance that will be necessary in examining the various legislative pitfalls, as well as the directions we may go, it will require a thorough study also, in addition to whatever amendments the Senator has to offer or may offer.

Mr. STEVENS. I will say to the Senator from Tennessee, if the Senator will yield further——

Mr. McGEE. I yield.

Mr. STEVENS. That if he will put himself in my place and the chairman's, he knows we are going back to committee and explore whether we ought to scrap the whole system.

The majority leader announces that maybe we shoud go on the concept of a cost-of-living increase. Would you offer an amendment to seek a compromise to see whether it is possible to make the Commission's recommendations fly at all? Would you do it right now?

Mr. McGEE. I would be prepared to offer soon a cost-of-living formula and see whether this body would be interested in that. I say to my colleague, that the measure of the Commission formula, I thought, was tested in the straight up and down vote we just had here. Even on the temporary compromises we tried, we got 17 votes on one approach and 26 votes on the second approach. We had five or six absentees that day that would have swelled the total from 26 to 31 or 32. Perhaps it would have to be done with some other approach which, I must say, I fail to see, but I am willing to consider whatever the Senator from Alaska would be interested in submitting.

Mr. STEVENS. Had it not been for cloture that might have been possible. It might have been possible to see whether the Commission, which was, really, the creature of former President Lyndon B. Johnson, was one of the great things

that Mike Monroney thought he had, which was adopted on the floor of the Senate, which was to bring about the establishment of a commission to take us out of this hassle.

I say to the Senator from Wyoming that what he is suggesting is that maybe we should get back in there. As bad as it is, it is better than it is now. Which reminds me of a story about Sam Goldwyn, which I will tell the Senator about later.

I tell my friend again, that I say, as one who sits down at the table from the two ranking members on the committee, that when the chairman announces we are going back to the committee before amendments have been offered by junior members, so that they are not brought up, I think maybe we had better examine some of the procedures of this body. I think maybe there may be more people on the floor of the Senate in the future than there have been in the past, because I do not think we would have had this if they knew what was going on in the Senate—knew how little we have been able to discuss this matter so far.

Again, this is just one man's little revolt that may be coming, but I am disturbed at the action taken by the Senate today.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Washington Star-News for March 5, 1974, entitled "Pay Raises."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PAY RAISES

By midnight Saturday, members of Congress will either have a pay raise or they won't, depending on whether their desire for more money prevails over their traditional reluctance to fatten their paychecks during an election year. The unfortunate thing about it is that the pay of 10,000 top federal career officials is hostage to the silly and somewhat hypocritical antics Senate and House members go through everytime the subject of congressional pay comes up.

At least 95 percent of the members want a pay raise and believe they are justified in having one. Yet the presumed or real fear of losing votes back home creates all sorts of maneuvers. Some oppose any raise. A few brave souls stand up and declare they are deserving. Others want to compromise, figuring that a little something extra won't stir the voters too much.

The fact is that Congress hasn't had a pay raise for five years and the full increase proposed by President Nixon (22.5 percent spread over the next three years in 7.5 percent increments) doesn't seem out of line. If they can't bring themselves to approve that much eight months before the fall elections, Senator McGee's one-shot 5.5 percent proposal (the federal wage guideline for private employes) is a reasonable alternative. Voters could hardly object to that, even though polls indicate they don't think much of Congress these days.

If congressmen decide to scrub their own raises altogether, they ought at least to find some way to increase the $36,000 limit now imposed on top federal career executives. Not only has the cost of living increased tremendously the past several years, but their pay has fallen behind salaries for comparable jobs in the private sector.

It is unreasonable to expect these deserving careerists to wait another year for a pay raise. It also is unreasonable to keep salary adjustments for them tied to congressional pay increases, which carry their own set of special political considerations. Legislation ought to be passed permanently separating the two.

Mr. McGEE. Mr. President, may I respond to my colleague for one moment and to the ranking minority member, and then I will yield to my colleague Mr. HANSEN who has been waiting to ask a question also—or to say something.

I want to say that the Senator is one of the committee members who stayed through the entire process, trying to write legislation to achieve a compromise judgment. He voted every time on each of the suggestions posed in turn. He stood up and was counted. He took what, legislatively at least, was the unpopular side, as did the ranking minority member and the chairman of the committee. We sorted those out as best we could in the committee sessions. All told, we had four or five alternatives. We submitted our outcome here to the floor as the only vehicle that could command five votes to get it out of committee. That was the one we should seriously consider because it was demeaning to this body. It excluded Congress from any kind of formula. We started from that. Then we took the measure as the other votes had been. That seemed to concentrate in larger numbers around the two alternatives that surfaced here and we presented them only in that light. It is subject to additional amendment. No one is excluded from any amendments, including the options of the Senator from Alaska. They should be considered without prejudice.

Mr. STEVENS. I understand.

Mr. McGEE. There is plenty of air to be let into the rules of the Senate. There is plenty of light in the Senate all over the place, God knows, with the complexities of the question of equitable salaries. So if the Senator from Alaska thinks he has been pinched off, disqualified, shoved back, to whatever he alludes to as "juniority," I should like to hear about it.

Mr. STEVENS. Mr. President, I should like to say to my colleague from Wyoming that I was here all day Monday and most of Tuesday. I am only saying this because of the fact that there are people in the judicial branch, in the executive branch, and I think many in the legislative branch, who wanted to see something good come out of this Commission. I think the Senator from Wyoming has announced the death sentence for the Commission. I say to the Senator most respectfully that I think you did it prematurely, before we could explore the possibilities whether any amendments we have now could fly. I do not think they can now. I have got to check with some of my colleagues to see whether they can fly. But, they should have. That is the point. Before cloture, there should have been some opportunity for others than just the ranking Members on each side to explore——

Mr. ERVIN. Mr. President, will the Senator from Wyoming yield for a question?

Mr. McGEE. I promised to yield to my colleague from Wyoming first.

Mr. HANSEN. Mr. President, I thank my distinguished colleague, the chairman of the committee, for his courtesy in yielding to me.

First, let me say that I think this committee is due an expression of appreciation from all of us for the tough job it has had to do, and the very statesmanlike manner in which it tried to seek out a workable solution because of the extremely tough and extremely trying difficult problem it was trying to solve.

There is no question at all but that it is a fact there are inequities in the present pay scales. That has been demonstrated on the floor time and again.

As a consequence of the facts, and others, the junior Senator from Wyoming was extremely hard pressed to know how to vote a little bit ago when he cast, along with others, a vote that has resulted in cloture being invoked.

Let me say that, basic to the problem, to the dilemma that faces each Member of this Congress, is the fact that by other derelictions on our part, our failure to balance budgets, putting more money into the economy than was contributed by a comparable contribution on the basis of goods and services, we have put many things out of balance.

Certainly Members of Congress are not overpaid as we contemplate the erosion of our purchasing power in the past few years. The same can be said with equal truthfulness about those civil service employees who are now bunched up, as the distinguished Senator from Hawaii (Mr. FONG) pointed out to us only a few moments ago.

Thus, I would hope that we might, in seeking a better solution to the problem—which so far seems to have been suggested—we contemplate also the great benefit, the great good merit that I believe would come about if we could, somehow, get a handle on inflation; because it certainly is true that there are many millions of Americans who live on incomes that have not reflected increases comparable to the increased cost of living in America. There are plenty of people whose purchasing power has been eroded by the inflationary fires contributed so significantly to by the actions of Congress. This is part of the problem. This is why I think I can say, without fear of contradiction, that a great number of people throughout America today are saying, Well, why raise your salary? Why take care of the situation which faces those civil service employees, admitting that it is true, that they are overpaid today, when we do not address in a more responsive fashion than we have so far the erosive force and character of inflation upon all jobs and purchasing power everywhere?

I do not have any solution to offer. I, too, share with my good friend the senior Senator from Wyoming (Mr. McGEE), and the other members of his

committee, a very deep appreciation, along with all my other colleagues, for the good job they have done.

I hope that we can find an answer. I should hope that as we search out ways to find the answer to this extremely tough problem, we would not exclude taking a more positive position on trying to control inflation.

I thank my colleague from Wyoming very much.

Mr. McGEE. I thank the Senator for his comments.

The simplest way, in hindsight, was to freeze all wages and prices and everything at the beginning. But we did not go that route. The President did not go that route. The result was that we ended up with everybody having been increased—except for those who are caught at the top. Inflation is just as real at 30 percent, whatever the level, and its consequences, administratively, are very serious.

That is why it seems inequitable and unjust to impose a freeze at this late stage of the game, after 4 years of allowing this steady cost-of-living adjustment in all of the private sector, where labor is involved and management is involved and all the governmental sectors except at the top are involved. We were being ridiculous in arguing that this was an inflationary process at this stage, when the total cost of the money allowed here for congressional pay was about $6 million, in a trillion dollar gross national product economy, in a $300 billion budgetary request. It has to be the utter element of the ridiculous to argue this is an inflationary process at this very late hour in the whole complex of our economic problems of the last 2 years.

I yield to the distinguished Senator from North Carolina.

Mr. ERVIN. In the absence of a vote, would not the recommendation of the President, which was based upon the findings of the Commission, automatically have gone into force sometime very soon?

Mr. McGEE. Yes. Without any kind of action in this body or the other body, it would have gone into effect on midnight Saturday.

Mr. ERVIN. And today is the 6th of March.

Mr. McGEE. That is right.

Mr. ERVIN. The distinguished Senator from Wyoming has been here long enough to know that it is very easy to filibuster for 3 days, in the absence of a cloture vote. Does not the Senator from Wyoming believe that it would have been very easy to have filibustered for 3 days and thereby automatically put the recommendations of the President into effect?

Mr. McGEE. It is always possible. Anything is possible in this body, I have discovered long since. That was not my intention, but it is irrelevant. That is a possibility.

Mr. ERVIN. I do not believe it is irrelevant. I think the people of the United States are opposed to any salary increase at this time, not only for Congress but also for the Federal judges and for highly paid Federal civil employees. So cloture was the only way that one opposed to the whole proposition could be certain he would be given a right to voice his sentiments. Otherwise, it would have gone into effect automatically in about 3 days.

Mr. McGEE. I think that is a realistic statement. I would suppose that there is not going to be any great groundswell among the people for an adjustment even next year or the next year or the next year or the next year. Thus, we are contributing to making it worse, because we are ducking the question.

Mr. ERVIN. I have always been glad that I voted against the bill to establish the commission. I think the best way for Congress to bring itself into the favor of the people is for the Members of Congress to stand up like men and perform their constitutional duties, and fix their own salaries, just as the Constitution contemplates they should do. So I would favor the abolition of the commission, because I opposed it originally and have always been proud that I did. I always thought that we should fix our own salaries, just as the Constitution contemplates; and if we do not like to do so, we can quit running for Congress.

Mr. McGEE. I thank the Senator.

Mr. FONG. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. FONG. Mr. President, after listening to the remarks of the distinguished majority leader, I am quite sure that the last few days have not been fruitless. I think we have convinced him now of the inequity of the present pay situation. When the majority leader said that he thinks we should follow some method in which cost-of-living increases may be cranked into the salary system, he has given way to the very adamant position he had taken in the beginning, that there should be no increases. I think what we have done over the past few days has been to carry on an educational process on the floor of the Senate.

I have been a member of the Post Office and Civil Service Committee for 15 years, and for the past 50 years the salaries of Federal blue collar workers have been based on the principle of comparability. It has worked so well that we have incorporated that principle of comparability into the Federal statutory pay system.

Under the blue collar wage structure, the country is divided into 39 geographic areas, and every year there is a survey made of the salaries in private industry within each area. If the pay for comparable jobs in private industry in that area are more than the wages paid to Federal blue collar workers, they receive an increase in wages. Almost every year there has been an adjustment in the Federal blue collar wages. It has worked so well that in 1962 the Congress incorporated that principle into the Federal statutory pay system, so that our white collar workers are being paid comparable salaries to private industry.

The last few days, we have been talking about the ceiling which has been imposed upon the people who are supposed to receive a salary comparable with that of their counterparts in private industry. We have shown that a middle GS white collar worker and a lower GS white collar worker will be receiving a comparable salary as time goes on. As the salary increases in the private sector, that will be made comparable for these people in the public sector.

Now that we have carried on this educational process on the floor of the Senate, I am sure we have changed the attitude that has persisted in the Senate that there should be no increases whatsoever.

The distinguished junior Senator from Wyoming says that now he understands and sees that there has been some inequity because of the erosion of the purchasing power.

The majority leader is willing to look into the matter of changing our salaries by tying it somewhat to the cost-of-living. With that in mind, I think we in the committee can work out something to the satisfaction of the majority leader. The majority leader, as we know, has tremendous influence on the floor of the Senate; and by his statement that something should be done in that regard, I think we have at least broken the dike somewhat and we can go back to the committee and work on a solution acceptable to the Senate.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. PROXMIRE. I simply want to make a unanimous consent request, and I will tell the distinguished Senator from Wyoming what it is for.

On February 25, I submitted an amendment to what was then the pending measure, which was the Dominick amendment. The Dominick amendment is not now pending; it is the Church substitute.

Mr. McGEE. The Church-Dominick measure.

Mr. PROXMIRE. I have been informed by the Parliamentarian that my amendment is not in order now because it was offered to an amendment which was not before the Senate and therefore was not involved in the action we took on the cloture motion a few moments ago.

For that reason, I have to get unanimous consent to have the identification changed so that this applies to the pending measure, the Church substitute, not to the Dominick measure, which would just take the amendment out of consideration.

Mr. McGEE. May I ask what the amendment is about?

Mr. PROXMIRE. The amendment provides that the Senate will have a chance to stand up and be counted on whether or not we can separate the salary increase provisions for Members of Congress on the one hand and for the judicial and executive personnel on the other.

I think the Senator from Hawaii and others have made a devastating case that this compression is insufferable, unfair, inequitable, and not intended. There-

fore, I wanted my amendment to be before the Senate for consideration, just on the basis of giving the Senate an opportunity to vote on it. I believe it has great merit. I hope the Senate will have an opportunity to vote on it.

Several Senators addressed the Chair.

Mr. PROXMIRE. The Senator from Wyoming has the floor.

Mr. McGEE. If I may respond quickly, the position we have explored here as we have gone along is that that would not be in order at this stage, having voted cloture. That kind of amendment would be a substantive change in the intent of the law. We would have to go the legislative route. Of course, we can do anything by unanimous consent but I would be rather moved to object only on the legislative ground.

Mr. PROXMIRE. Mr. President, I put the amendment in in good faith on February 25, long before the cloture motion was suggested. Now, to be ruled out on a technicality, although it is germane to what we are considering, and Congress should have an opportunity to vote on it, it seems to me is unfair. It is unfair to knock this out on a technicality, which is what would be done if there is an objection.

Mr. McGEE. The Senator from Michigan has a comment, I believe.

Mr. GRIFFIN. I personally will not object to the unanimous-consent request. I have an amendment I plan to offer, and frankly I would like to have a vote on it before we vote on the three branches separately. My amendment provides that the recommendations of the Commission would go into effect with the exception of U.S. Senators. I think that the Senate has demonstrated its will that there are many who feel, as the Senator from North Carolina feels, that we should consider and vote on our pay raises as a separate matter. I do not think we should impose our judgment on the other House of Congress. I think they should be free to make their own decision.

Mr. PROXMIRE. I would be happy to defer consideration of my amendment.

Mr. GRIFFIN. But I personally think it is disgraceful and outrageous for us not to recognize the merit of raises for district judges and others and the serious problem of civil service employees at the highest level who are being discriminated against. I think that we should give the Senate a chance to take itself out of this and decide later what to do about the Senate.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McGEE. I have control of the floor. I yield.

Mr. MANSFIELD. Why does the Senator call up that amendment, and keep in mind at the same time that as far as the judges are concerned, there are long lines waiting for any vacancy which may occur, that the judges pay nothing whatsoever toward their retirement; when they are in, they are in for life; they have no campaigns to conduct, and no outside expenses. All this should be kept in mind because, as the Senator knows, the ABA has been conducting quite a campaign for an increase in the pay for judges.

They are in for life, they are fully independent, they have no campaigns to conduct. If they want to resign, let them because there are hundreds and thousands equally qualified and who are ready, willing, and able.

Mr. GRIFFIN. I am ready to call up the amendment if I can get the floor.

Mr. McGEE. I would have to say that the moment you start taking that approach, at that moment you are further contorting the system. We have generally agreed to have to start over again and see how to put it together. We cannot take one part on the judges or the under assistant secretary and still achieve equity. This would be a patchwork approach.

I am sure you will find a long list of people waiting to run for the Senate, by the same token, and we cannot legislate meaningfully and constructively on this matter in that way.

If it requires unanimous consent on the proposal that is made, because of its legislative content I would have to object reluctantly because I think it properly belongs in the context of the procedures of the committee that is going to carry out its work, but I do not like to use that phrase, by going directly to the job at hand without delay.

Mr. PROXMIRE. What my good friend from Wyoming is doing by objecting is to prohibit the Senate from having a chance on vote on separability. We can act on separability by having Congress stand up and vote on our increases now. We can also permit the compression problem to be solved now. We all understand what this is doing to the legislative branch of Congress. But it is a ridiculous situation when in one department 50 or 150 persons are making the same salary as their superiors. It is not right to hold them hostage until Congress gives itself a pay raise. It seems to me that that is absolutely wrong. But whether it is right or wrong, the Senate ought to have an opportunity to stand up and vote on the question.

Mr. McGEE. I would object, as chairman of the committee, only as to the legislative procedure. There is great merit in what the Senator from Wisconsin says. But considering how very close we came on this legislation, this is not the way to approach it, now that the Senate has expressed its will in a very general way. I do not agree with that, but I will abide by it. I do not think we should be legislating in that way. If we are going to come to grips with the question in committee, let us do so.

Mr. PROXMIRE. The Parliamentarian has informed me that there will be an opportunity later to vote on the question when it comes before the Senate, even with the cloture provisions in effect, by voting no on the Church amendment. Senators can then vote yes on the resolution. This will stop a pay increase for Members of the Congress but permit it for the executive and judicial employees.

Mr. McGEE. I thought the Senator was offering it now. That is the reason for my objection.

Mr. President, I am prepared to yield the floor.

Mr. HART. Mr. President, will the Senator yield?

Mr. McGEE. I yield to the Senator from Michigan, who has been waiting to be heard.

Mr. HART. It goes back to a comment made earlier. The suggestion was made that this is a complex question. I suggest that we have a clearer understanding of what is involved than we have on 99 percent of the business we do here. Let us not extend the kidding exercise still further by suggesting that the question is complex.

Mr. McGEE. Mr. President, I have no further questions.

Mr. GRIFFIN. Mr. President, may I be recognized?

Mr. McGEE. Just a moment. I have not yielded.

Mr. STEVENS. Mr. President, does the junior Senator from Michigan seek recognition in his own right?

Mr. GRIFFIN. I would like to have recognition.

Mr. McGEE. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Michigan.

Mr. GRIFFIN. Mr. President, I have an amendment to the resolution at the desk which I now call up.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

Amendment by Mr. GRIFFIN to S. Res. 293: Beginning with "for" after "rates of pay" strike out through the comma following "Congress" and insert "for U.S. Senators, such recommendations having been".

Mr. GRIFFIN. Mr. President, this is a very simple amendment. It will give the Senate an opportunity to allow the President's pay recommendations to go into effect for all those affected except U.S. Senators.

The mood—the will—of the Senate is very obvious. Senators do not want to vote themselves a pay raise.

This amendment recognizes the arguments that have been made, over and over again, on the Senate floor in the course of this debate.

Perhaps more time—and hearings are needed to determine when and whatever the salary of Senators should be adjusted But, so far as I am concerned, I do not believe more time is needed to realize that Federal judges and others affected are entitled to, and need, the increase recommended. They have not had a pay raise in 5 years, while the cost of living has gone up 30 percent during that period of time.

Even though Senators may conclude that they should not have a pay raise at this time, I do not believe that judgment should stand in the way of providing a degree of equity and justice for those who do not happen to serve in the Senate.

Mr. President, I will ask for the yeas and nays.

Mr. DOMINICK. Mr. President, a parliamentary inquiry first.

Mr. GRIFFIN. I understand that there are a number of Senators who will not be available to vote for at least an hour because of some responsibilities downtown. Perhaps we could set a vote on this amendment for 1:30.

Mr. MANSFIELD. Mr. President, may I be recognized? We each have 1 hour.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Montana.

Mr. MANSFIELD. I suggest the absence of a quorum, and I would suggest to the attachés that they get some Senators here so we could get the yeas and nays ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending amendment occur at the hour of 1:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I surely hope the Senate will turn down the amendment offered by the distinguished Senator from Michigan. I can imagine nothing more demeaning to the Senate than to take the position that the entire top echelon of the Government should receive substantial increases in pay, but the Senate should be excluded.

From the beginning of this debate, I have based my position on the argument that no pay raises, whether for the legislative or the judicial or the executive branch, are justified at this time. If I had felt that such pay raises were justified, I would have favored them for everyone—Senators, Congressmen, Federal judges, Cabinet members, Ambassadors, and all those who occupy the top brackets of the civil service.

It is somewhat chilling to hear the distinguished Senator from Hawaii (Mr. FONG) remind us that there are presently 12,000 employees on the Federal payroll receiving $36,000, the ceiling wage for civil servants. That is nearly as large a force as an entire infantry combat division. I remember a time, some years ago, when General Motors decided to hold a convention at Sun Valley for its top-paid executives. Sun Valley is a big resort, but General Motors had to call off its plans because there was not enough room at Sun Valley, to accommodate all the executives of General Motors receiving $25,000 or more. Where in the world would be ever put the Federal employees who today are receiving $36,000, the top authorized salary in the civil service?

Why do I stress that? Not because I am not aware that there are many positions in Government deserving such pay, but because Congress should be cognizant of the trend within the civil service. If we have any sense of responsibility for controlling Federal pay in the interest of the taxpayers, we must examine the trend.

During the last 5 years, jobs in the lowest five grades of the general pay schedule have declined by 82,000, or 15 percent, while positions in the top five categories have gone up by more than 14 percent, or 55,200 added positions. This is known by those who understand the lexicon as "upward creep," whereby the entire salary level within the civil service is moving in the direction of the highest paid jobs. And their numbers have been increasing so rapidly that, in 5 years alone, more than 55,000 Federal positions have been upgraded into the higher categories.

That is why we are paying $64 billion of the Federal budget for salaries alone; and it will go above $70 billion next year.

Mr. President, if I believed that we were doing an injustice to the Federal judges, the Ambassadors, the Cabinet members, and the others who receive the highest salaries in Government, then I would favor pay increases for all of them. However, in view of the fact that the Federal payroll has more than doubled in the last 10 years; in view of the fact that we have increased the pay faster than inflation; and in view of the fact most employees, at most levels, are getting better pay than others are receiving for comparable work outside the Government—and this is admitted—I fail to see an injustice being done if we say this is not the time to increase pay still further for those at the top.

I suggest, Mr. President, that there are two ways in which one can look at this question and argue a plausible case. One can say that these top salaries in Government have not been adjusted since 1969, and that we should raise the lid now so that all other wages within the Federal pay structure may go up, including those 12,000 positions now frozen at $36,000 a year level. Or one could take the position that this is the worst possible time to raise the lid, in view of the obvious failure of the Government to cope with the peoples' problems, and in view of the low esteem in which the people now hold the Congress and the Nixon administration.

Senators could logically take one position or the other. However, I cannot see how anyone could take the position advocated by the distinguished Senator from Michigan. No matter which way we go, his amendment's way makes no sense.

So I would hope that the Senate would overwhelmingly reject the amendment of the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. MANSFIELD. Mr. President I move that the Senate stand in recess until the hour of 1:15 p.m.

The motion was agreed to; and at 12:54 p.m. the Senate took a recess until 1:15 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, before the Senate votes at 1:30 p.m. under the unanimous-consent agreement I wish to state again for the record what this amendment would do.

Mr. President, this amendment provides that the recommendations submitted by the President, would go into effect, except in the case of U.S. Senators.

It seems clear that the will of the Senate has been registered. There seems to be a strong view among Senators that they do not want to vote themselves a pay increase at this time. That view can be recognized without adversely affecting the entitlement of others to an equitable cost-of-living adjustment.

Mr. President, I am particularly concerned about the situation that confronts Federal district judges. The salary of a Federal judge is $40,000. I am sure that sounds like a lot of money to anyone who makes $10,000 or $15,000. I well appreciate that. But we cannot overlook some facts of life. A Federal judge was making $40,000 5 years ago, and during that 5-year period the cost of living has gone up 30 percent.

Furthermore, it is not uncommon for a top-ranking law student coming out of law school these days to begin work with a salary in the neighborhood of $20,000, one-half the salary of a Federal judge.

Unfortunately, a growing number of Federal judges are leaving the bench and going back to private practice because those who are really able lawyers can make much more than $40,000 a year in the practice of law. Such developments

are not in the best interests of the Nation.

At a time when there is great concern about confidence in government, it is more important than ever to attract and hold the best and most able lawyers as judges on the bench.

Accordingly, even though Senators are reluctant to vote themselves a pay raise, surely that is no reason for the Senate to take a much broader step that would weaken the bench and further weaken confidence in the Government.

Some have mentioned that my amendment could bring about an unusual situation in which Members of the House of Representatives could be paid more than U.S. Senators. To be sure, that would be a bit odd and unusual. But I call attention to the fact that after the Senate finally acts today, the House will have plenty of time—between now and midnight Saturday—to take action with respect to salaries of House Members.

My amendment does not refer to House Members because, in accordance with tradition, each House of Congress ordinarily makes such decisions with respect to its own Members.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. GRIFFIN. I am glad to yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. What would the Senator indicate might be the position of Senators, like me, who believe that there should be no increases at this time in any of the categories that have been mentioned in the $36,000 and above, when we come to face the vote on the Senator's amendment; those of us who genuinely believe there should be no increases at this time?

Mr. GRIFFIN. Of course, the distinguished Senator from West Virginia is free at a later point to vote for the Church substitute, which would deny the pay raise for all, as I understand. I would not presume to tell the Senator what he should vote, of course.

Mr. PERCY. Mr. President, I support the Griffin amendment as a reasonable way out of our current impasse over the pay raise issue. Although I feel that some pay raise for all Members of Congress is justified, if for no other reason than to compensate for the 30-percent cumulative rate of inflation over the past 4 years, I will vote for this amendment which would exclude Senators but give pay raises to the judiciary and the executive branch.

It is vital that we be able to attract and retain able men and women in the judiciary and in the high levels of Government service. Therefore, I support this amendment. Not to find some way of increasing salaries for the judiciary and executive branch will either result in able people leaving such positions and making it difficult to attract the most able men and women in the future, or, will result in a continuing gross inequity to some of the ablest and most valuable men and women in the Federal Government.

The PRESIDING OFFICER. The time of 1:30 has arrived. Under the previous order, the question is on the amendment of the Senator from Michigan (Mr. GRIFFIN). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The result was announced—yeas 18, nays 80, as follows:

[No. 55 Leg.]

YEAS—18

Abourezk	Hartke	Metcalf
Baker	Hruska	Percy
Cotton	Javits	Roth
Fong	Kennedy	Stevens
Griffin	Long	Taft
Hart	McGee	Tunney

NAYS—80

Aiken	Eastland	Montoya
Allen	Ervin	Moss
Bartlett	Fannin	Muskie
Bayh	Fulbright	Nelson
Beall	Goldwater	Nunn
Bellmon	Gravel	Packwood
Bennett	Gurney	Pastore
Bentsen	Hansen	Pearson
Bible	Haskell	Pell
Biden	Hatfield	Proxmire
Brock	Hathaway	Randolph
Brooke	Helms	Ribicoff
Buckley	Hollings	Schweiker
Burdick	Huddleston	Scott, Hugh
Byrd, Harry F., Jr.	Hughes	Scott, William L.
Byrd, Robert C.	Humphrey	Sparkman
Case	Inouye	Stafford
Chiles	Jackson	Stennis
Church	Johnston	Stevenson
Clark	Magnuson	Symington
Cook	Mansfield	Talmadge
Cranston	Mathias	Thurmond
Curtis	McClellan	Tower
Dole	McClure	Williams
Domenici	McGovern	Young
Dominick	McIntyre	
Eagleton	Metzenbaum	
	Mondale	

NOT VOTING—2

Cannon	Weicker

So Mr. GRIFFIN's amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Idaho.

Mr. CHURCH. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho. On this question the yeas and nays have been ordered.

Mr. STEVENS. Mr. President——

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. STEVENS. Mr. President, I have an amendment at the desk. Is it possible for a Senator to modify an amendment pending at the time cloture was voted and before the yeas and nays have been ordered?

The PRESIDING OFFICER. Not without unanimous consent.

Mr. STEVENS. Mr. President, I do have an hour. I will not take the hour. However, let me explain what I am trying to do.

This morning the majority leader suggested that we should take the cost-of-living element and tie any increases in salary to the cost of living. I have an amendment pending that would permit the increases recommended by the Commission in the executive, legislative, and judicial salaries to the extent of 5.5 percent each year. I seek to modify that amendment so that we would disapprove any increase recommended by the Commission and submitted to the Congress by the President to the extent that any increase would exceed the increase in the cost of living as certified by the Bureau of Labor Statistics in the year preceeding the effective date of the raise recommended by the Commission.

That takes the suggestion of the majority leader and ties it directly to the Commission recommendation. It could be effective now.

I seek to modify my amendment which was pending so as to permit a vote on that proposition.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry. quiry.

Mr. DOMINICK. Mr. President, it is my understanding that we voted on substantially the same amendment when it was offered by the Senator from Wyoming on Monday. Do we vote on it again?

The PRESIDING OFFICER. I do not think the pending amendment that is now proposed to be modified by the Senator from Alaska is sufficiently different to be a different amendment.

Mr. STEVENS. Mr. President, I might state that 5.5 percent is the cost-of-living guideline for increases in wages. This proposal would tie any increases recommended by the Commission to the actual increase in the cost of living and state that the lower of the two would govern.

If the Commission recommended less than the increase in the cost of living, that would go into effect, and we would disapprove any raise that would be in excess of the increase in the cost of living in the 12 months preceding the effective date of the raise as recommended by the Commission.

The PRESIDING OFFICER. Is there objection to the proposed modification?

Mr. CHURCH. Mr. President, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. COTTON. Mr. President——

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Was there objection, Mr. President?

The PRESIDING OFFFICER. There was objection to the proposed modification.

AMENDMENT NO. 996

Mr. STEVENS. Then I call up my 5.5 percent amendment. It is the amendment which I filed, and should be printed and at the desk.

The PRESIDING OFFICER. There are two amendments of the Senator from Alaska pending and at the desk.

Mr. STEVENS. It is amendment No. 996.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENS' amendment (No. 996) is as follows:

Immediately after "pay for" on line 2, strike all the balance of the resolution and insert in lieu thereof: "all offices and positions referred to in subsection (f) of section 225 of the Federal Salary Act of 1967 and transmitted to the Congress on February 4, 1974, for which increases have been requested by the President in excess of approximately 5.5 percent per annum in any calendar year included in such recommendations, and therefore disapproves any recommendation to increase the rates of pay for executive, legislative, and judicial offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of that subsection (f) to the extent such rate would exceed the following rates:

	1974	1975	1976
"For offices and positions under the executive schedule in subchapter II of chapter 53 of title 5, United States Code, as follows:			
Positions at level I [1]	$60,000	$63,000	$63,300
Positions at level II	44,838	47,304	49,906
Positions at level III	42,200	44,521	46,970
Positions at level IV	40,090	42,295	44,621
Positions at level V	37,980	40,069	42,273
For Senators, Members of the House of Representatives, and the Resident Commissioner from Puerto Rico	44,838	47,304	49,906
For other offices and positions in the legislative branch as follows:			
Comptroller General of the United States	44,838	47,304	49,906
Deputy Comptroller General of the United States	42,200	44,521	46,970
The Public Printer, Librarian of Congress, Architect of the Capitol, and General Counsel of the General Accounting Office	40,090	42,295	44,621
The Deputy Public Printer, Deputy Librarian of Congress, and Assistant Architect of the Capitol	37,980	40,069	42,273
For Justices, judges, and other personnel in the judicial branch, as follows:			
Chief Justice of the United States	62,500	65,938	65,938
Associate Justices of the Supreme Court	60,000	63,300	63,300
Judges, Circuit Court of Appeals; judges, Court of Claims; judges, Court of Military Appeals; judges, Court of Customs and Patent Appeals	44,838	47,304	49,906
Judges, District Courts; judges, Customs Court; judges, Tax Court of the United States; Director of the Administrative Office of the U.S. Courts	42,200	44,521	46,970
Deputy Director of the Administrative Office of the U.S. Courts; Commissioners, Court of Claims; referees in bankruptcy, full-time (maximum)	37,980	40,069	42,273
Referees in bankruptcy, part-time (maximum)	18,990	20,034	21,136".

[1] Except as provided in Public Law 93-178.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. On last Monday, we voted on a 5.5-percent increase proposed by the Senator from Wyoming. Are we to vote on the same thing again? Is that in order?

The PRESIDING OFFICER. The Chair has not read the pending amendment, and does not have before him the one the Senate acted upon last Monday. As soon as the Chair receives that, he will rule.

Mr. STEVENS. Will the Chair restate the inquiry?

Mr. DOMINICK. The inquiry, I will say to my friend from Alaska, was that the senior Senator from Wyoming offered a 5.5-percent increase proposal last Monday, which was voted down by the Senate, and the question was whether this amendment, covering the same ground, was in order.

The PRESIDING OFFICER. The Chair will state that the amendment under consideration is in order.

Mr. DOMINICK. Will the Chair enlighten this unenlightened Senator as to why it is in order, if we have already voted on it once?

The PRESIDING OFFICER. The Chair will state that the amendment not only provides for an increase, but it also provides a schedule of rates at the end of the amendment, which, to the Chair's way of thinking, makes it sufficiently different from the amendment previously proposed.

Mr. DOMINICK. I thank the Chair.

Mr. STEVENS. Mr. President, I am sorry not to have informed the Senator from Colorado that it was my intention not to seek a vote on this amendment.

I think had we been able to vote on the suggestion made by the majority leader, we might have had an opportunity to have a successful vote, because I think he made a very valuable suggestion this morning, and that is, that we should seek as members of the committee to explore some way to have this proposed pay increase tied strictly to cost-of-living increases. Unfortunately, the cloture vote prevents the consideration of that.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. PASTORE. I compliment the Senator from Alaska in not pursuing this proposal. I am afraid it is becoming pretty much a charade; I think we know pretty much what the feeling of the membership of the Senate is. I think we ought to vote on the Church-Dominick amendment and have it over with, and let the committee itself work this thing out next year.

Mr. STEVENS. I agree with the Senator from Rhode Island. As I said this morning, the one thing we have to do is learn how to count. It is not a very complex subject; as the Senator from Michigan says, it is a matter of addition and subtraction in terms of pay raises. We certainly ought to know what the votes are and where they are on something like this.

I am sorry we cannot pursue the majority leader's recommendations. After the exchange that took place here this morning, and the conversation that I had with the chairman of our committee, we went back and did, in fact, work out a proposal representing what, in fact, was substantial agreement among Senators present here on the floor this morning, that if we would only put pay raises totally within the framework of adjustments in the cost of living, then perhaps we would have a solution.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield to the Senator from Wyoming.

Mr. McGEE. I think the distinction the Senator makes there is an important one that we understand for sure, and that is that there is a difference between the Cost of Living Council's guidelines, which in January were 5.5 percent, and the cost of living rise, which is quite a different thing over the past year. It is a higher figure than 5.5 percent.

There were several who raised questions to make sure that we drew that distinction. I thought that was the point of the amendment.

Mr. STEVENS. That is correct, but if we do not want it to go into effect next year, we can get together, cooperate, and cut inflation down, and there will be no increase. But it would be tied entirely to the cost-of-living increases prospectively.

So I think the majority leader made a suggestion that should be explored, and I was prepared to explore it.

Mr. President, I think some of us have some commitments here that we would like to explore just briefly. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will be in order.

Mr. McGEE. Mr. President, I would like to propound a proposal for consideration, after consultation with the Senator from Alaska, to resolve this current situation, because of some commitments that were made to our colleagues who are in committee sessions elsewhere around town, that is, with the bureaus, that we try to reach a time certain this afternoon on an up or down vote on the Church-Dominick resolution, and then, if we can agree upon that time, we could proceed to do other things, have colloquies and things like that, that Senators have requested, but still have the time certain for the vote.

What has been advocated is that we agree, if it is acceptable, to an up or down vote on the Church-Dominick amendment back to back with the 5 o'clock vote that is now agreed upon,

since everyone is in focus on that approach as to the time. So I would make that unanimous-consent request.

Mr. BAYH. Mr. President, reserving the right to object—which way does the back go? Are we placing it before or after?

Mr. McGEE. It would have to follow—after.

Mr. BAYH. Then, with all due respect, I would object.

The PRESIDING OFFICER (Mr. HATHAWAY). Objection is heard.

Mr. BAYH. I think maybe some Senators here, if we put the vote before, would have no objection.

Mr. McGEE. I do not think that is a factor in terms of the discussion here. Let me rephrase the unanimous-consent request. I am trying to protect those who are taking the 5 o'clock vote as a sacred commitment without other votes. We would like to come as close to that time as we can. Shall we say 4:45?

Mr. BAYH. I have no objection to anything that will not delay the vote past 5 o'clock.

Mr. McGEE. Mr. President, I ask unanimous consent that we agree to a front to back vote at 4:45 p.m., up and down, on the Church-Dominick resolution.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I do not know that I shall—but it should be understood that if the Church-Dominick substitute prevails, which I rather suspect will be the case, then the resolution as amended by Church-Dominick would then be the question. Would there be a vote on that?

Mr. STEVENS. That would be at 4:30?

Mr. CHURCH. Mr. President, this would have to go to a final vote, and any unanimous-consent agreement would have to accommodate the final vote on this question.

Mr. BAYH. Mr. President, reserving the right to object, if that is necessary, I suggest to the distinguished Senator from Wyoming that we have it at 4:30 p.m., with the understanding that the other vote will then proceed, and that the length of the vote will be such that it will not delay the hour at which we have already agreed on to vote, at 5 o'clock.

Mr. McGEE. Let me try one more time. I ask unanimous consent that——

Mr. GRIFFIN. Would the Senator withhold that request—I do not want to object—but I will have to say at this time that I could not agree to it without checking with some of those who are primarily concerned with the 5 o'clock vote on the override of the veto.

Mr. McGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HELMS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. Mr. President, I yield to the Senator from New Hampshire (Mr. COTTON) who has a matter he would like to call to the attention of the committee.

Mr. COTTON. Mr. President, I was waiting just for a moment because I was hoping that the Senator from Hawaii (Mr. FONG), the ranking minority member of the Post Office and Civil Service Committee——

Mr. McGEE. In private colloquy beforehand, he agreed to leave with me his proxy for the colloquy.

Mr. COTTON. I will be very happy to join in the colloquy and to make it very brief, I reassure the Senator.

Mr. McGEE. Perhaps the Senator can propound his question at this point.

Mr. COTTON. Mr. President, in order to make the record clear, it was sometime during the latter part—I would now like the attention of the Chairman, and the ranking minority member, who has now come into the Chamber—sometime during the latter part of the last session I conferred with the chairman of the committee, the Senator from Wyoming, and the ranking minority member, the distinguished Senator from Hawaii, on a point that I felt was a matter of ordinary justice to many members of our staffs on the Hill as well as those in upper grades downtown.

Something more is involved here than the matter of salary. For several years now—4 or 5 years—there have been increases on paper, so to speak, in the compensation for these people, and they have been denied those increases because there has been, as everyone knows, a ceiling; so that the least experienced and the younger people on our staffs and the staffs downtown have been getting cost-of-living increases from time to time, while those experienced people—take our own staffs, for example—who have borne the brunt of the work through the years have been frozen at the $36,000 level.

My proposal, which I took up with the distinguished Senator from Wyoming and the distinguished Senator from Hawaii before the close of the last session, as I had hoped to have action then, was simply this: There should be no increase in pay, but those whose salary advances have been frozen while the lower grades and the less experienced and the younger people on our staffs had been getting these raises should have the option to pay from their own pockets toward their retirement fund the amount they would have paid had they not been barred from receiving the advances that had been accorded all those in the lower grades.

The Senator from Wyoming and the Senator from Hawaii, as always, were kindly and sympathetic. But they felt that it would cause them confusion to make that attempt last session, when the whole matter of the pay raise was going to be taken up immediately in this session. They indicated that if the whole pay raise situation was advanced and was adjusted, it might not be necessary. I agreed with that and made no effort to get action on this bill.

Now the situation is different. Once more we have apparently marched up the hill and marched down again, and it does not look as though a raise at this time is going to take effect for these people.

This is my important point, and this is the point to which I should like to direct the attention of the Senator from Wyoming, particularly. In his remarks after the vote on cloture, the Senator from Wyoming said that it would be the purpose of the Committee on Post Office and Civil Service to go into this whole matter, start from the beginning, and review the whole situation, which has been so unsatisfactory and has worked out so unfortunately, and try, not later than the first of next January, to come back to the Senate with some kind of new proposal that would try to bring this matter into line. That is a sentiment with which I thoroughly sympathize, and I commend him for it. However, it leaves the people about whom the Senator from New Hampshire and some others are particularly concerned out in the cold.

For example, to be perfectly frank about this, as everyone knows, the Senator from New Hampshire is retiring from the Senate the first of next January. I have on my staff three or four people who have been with me nearly 25 years. They had not received the last two or three increases because their salaries have been frozen. I know that others are in that situation. I know that there are people downtown in the upper grades in that situation. I feel that they should not be frozen out, because that is exactly what would happen if nothing were done about this until the first of January of 1975.

Mr. President, this would work both ways in the matter of economy. In the last few months we have lost some rather valuable people from the committee staffs, from the committees on which I serve, who I think would have remained with us if by doing so their retirement would have been increased somewhat. They at least would have waited until the end of this year and perhaps the end of next year to retire. On the other hand, there are many who would like to retire and are planning to retire in the not far distant future, and they would be more likely to retire if they were able to receive even the small additional retirement for which they would be paying from their own pockets, from their frozen salaries.

My purpose is to appeal to the distinguished Senator from Wyoming, the chairman of the committee, and the distinguished Senator from Hawaii, the ranking minority member, and ask them if they would consider this matter immediately. I realize that there are problems connected with it—the question of whether we go back to January, whether we go back to the last raise, and other questions that have to be considered. For that reason, I did not file an amendment at the desk to bring up after cloture and try to bring this matter to a head.

In view of that fact, in view of the fact that this, in the opinion of this Senator, is at least just plain, ordinary justice for a group of people who have been and will be shut out and discrimi-

nated against if we wait until next January, I should like to appeal to them on this point, as to whether they would be willing to take it up immediately and, if possible, get some action which could be retroactive at least to the 1st day of January, 1974.

Mr. McGEE. I say to the Senator from New Hampshire that we would indeed guarantee that we would separate that from whatever ongoing action we would be considering for next January, if that were the time, and that we will get at this right away. I cannot promise the Senator what the decision may be, because of the complications to which he alludes; but we would not tie it in with the delay until next January, for understandable reasons. We would give it every consideration and report to him as well as to this body as quickly as we could arrive at a decision.

Mr. COTTON. Should the Senator from New Hampshire put this in the form of a bill, introduced and referred for that purpose?

Mr. McGEE. It is in the committee at the present time. At the end of last year, as the Senator will recall, he first advanced this proposal. So we were prepared to consider it in the light of whatever the legislative language ought to be, if it were to be covered adequately before passing judgment.

Mr. COTTON. It is not in the form of a bill presently before the committee.

Mr. McGEE. No, it would be a bill structured by the committee staff in light of the dimensions of the problem, which vary somewhat.

Mr. COTTON. And the Senator from New Hampshire and others would be given the opportunity to discuss it?

Mr. McGEE. To be heard; exactly.

Mr. FONG. Mr. President, in answer to the distinguished Senator from New Hampshire concerning this problem, he has discussed this matter with me and with the chairman of the committee at great length, trying to make up some equity for those who have been denied comparable pay. As of today a GS–18 has lost $11,557 from comparable pay he would have gotten if the ceiling had not been in effect over the past 3 years.

Under the pay comparability principle with that in the private sector this GS–18 should be receiving $43,926. This is the amount his counterpart in industry is receiving today. But by placing the ceiling of his pay at $36,000, he has been deprived of $7,926 in annual salary as of today.

This GS–18 employee during the years 1971 through 1973 has lost an aggregate of $11,557. So, Mr. President, you can see that this question raised by the distinguished Senator from New Hampshire merits very serious consideration. This is particularly true when one looks at it from the standpoint of retirement pay. Because the GS–18 lost $11,557 over the past 3 years, from the standpoint of retirement and assuming this employee retired today at age 55 with a life expectancy of about 19.3 more years, this employee would be losing $44,100 in retirement annuity.

So I would say that I, for one, as the minority member of this committee would look into this matter seriously because I think it deserves every consideration. How we are going to do it, I do not know.

Mr. COTTON. I thank the Senator from Hawaii, but I want to hasten to add one admonition. These figures he has been reading frighten me somewhat and I think they may frighten the committee. I want the RECORD to show clearly that as far as the Senator from New Hampshire is concerned he is not suggesting for one single moment, first, that any of this salary be paid——

Mr. FONG. I brought that matter up only from the standpoint of the great injustice that has been done.

Mr. COTTON. I understand. Second, the Senator from New Hampshire is not even suggesting that the individuals in question be allowed to pay up the difference in contributions over this full time but only at their option back to such time, if it is only to last January, to make up for what happened today. One objection was placed, which will be raised again, and that was that all must be compelled; there should be no exception; they would be compelled to pay it. Otherwise it would cause too much work, trouble, and bookkeeping downtown in the Civil Service Department. That does not cause me to shed any tears in the first place. This all stops the first day of January, 1975, if we are only involved for 1 year. We might give them more but it is 1 year. Some employees might not be financially able to make this investment and to protect themselves, and therefore not do it.

In the first place, it is not a continuing bookkeeping problem. I do not believe it would be an unnecessary burden on the civil service department downtown to take care of this matter if the committee, the Senate, and the House decide in favor of this one small step toward bringing justice to people because of their long service and because of their age, and perhaps because of changes in circumstances, such as the fact that their Senators and Representatives decided to terminate their service by January 5, 1975.

So I hope that will not be considered against us. I wanted to make the RECORD clear.

Mr. FONG. The Senator has my assurance we will look into the matter seriously.

Mr. COTTON. And be as generous as possible?

Mr. FONG. Yes, we will try.

Mr. COTTON. Will you try hard?

Mr. FONG. Very hard.

Mr. COTTON. I detect much more reluctance on the part of my good, distinguished minority leader on the committee than I did from the Democratic chairman. I wanted to get him in line, if I could.

Mr. McGEE. It is only a matter of realism. The majority of the committee has to be brought in.

Mr. COTTON. The Senator from Wyoming has a very warm heart.

Mr. McGEE. Mr. President, the Senator from Montana has a request.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the Church-Dominick amendment occur at the hour of 2:40 p.m., that the first vote take the usual 15 minutes, to be followed immediately by a vote on final passage, that vote to take 10 minutes; and after that vote then to immediately take up the President's veto message on the energy emergency bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McGEE. Mr. President, I yield to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I wish to state to my good friend from Wyoming that I have checked the several efforts made on the matter and have seen the outcome of the votes on the amendment by the Senator from Michigan (Mr. GRIFFIN). It is apparent there is no reason to proceed with these amendments, but I would like to have some indication of what the timing would be by the committee to explore this process. I still have great fear we are going through another year of inflation and that we will be back next year when the second year of these recommendations would come into effect. We may be so far out of line we will actually see the total decay of the civil service system.

I pointed out the other day the number of people leaving from middle management, a 43-percent increase in retirements and departures of middle management from the executive branch.

I think we ought to have some understanding of the timetable involved in the committee's further explorations as to the solution of the problem.

Mr. McGEE. I would want to respond, and my colleague (Mr. FONG) would want to respond that, in the light of the leadership of the Senator from Alaska on this question, and his pressing for responsibility on the part of the Senate in regard to it, and the expressions manifested here in the colloquies this morning, they would certainly require the committee chairman to commit himself to the earliest possible action on the cost-of-living mechanism formula rather than hold that up in a package until next January, as intimated in earlier remarks. I think there is surfacing a real sense in this body of the realism of that and its equities and something that the individual voters and taxpayers likewise understand as the cost of living.

So it would be our hope that we could have hearings and committee action that would consume only a matter of weeks, rather than a matter of months, and proceed without any intentional or parliamentary delays.

Mr. STEVENS. Is it the Senator from Wyoming's and the Senator from Hawaii's feeling that the committee could get to this matter so that we could assure the people who would be affected by the pay raises which are now going to be dis-

approved that, if they stay with their careers, we will do all we can to see that some type of increase, hopefully something like the wage board automatic increases, would be within the realm of reasonable anticipation for the next fiscal year?

Mr. McGEE. I would think that they would be within the realm of reasonable anticipation. Long since have we learned not to be absolute in our predictions. I have not been in touch with Jimmy the Greek to see what the odds are, but those odds will be enhanced by the grim determination of both the ranking Republican member of the committee and the chairman to expedite it in any way within reason.

Mr. FONG. Mr. President, I will say to the Senator from Alaska that originally I was pessimistic as to what the committee would do even if it went back to committee for further consideration, but after the colloquy this morning and after hearing the majority leader say that, somehow, the cost of living could be tied into the pay matter we were discussing, I am now quite optimistic. If we go back to the committee and report out a reasonable solution I believe the majority leader may be willing to accept it.

So with that optimistic tone, I would urge the distinguished Senator from Wyoming, who is chairman of the committee, to proceed with haste on this matter. I will help him in every respect to have the matter resolved in committee.

Mr. STEVENS. Mr. President, I am grateful to the Senator from Wyoming and the Senator from Hawaii for their comments. We all know when we have had the count of 10, and we have certainly had a full count on this resolution. Again, I can only express my real concern that we may have shelved the only real mechanism for bringing about equity in an area that is absolutely fraught with total pressures on those who are involved in the elective process.

I felt, when I first came here, that this was a real solution to the problem of facing up to the concepts of adjustments in compensation for those who are on the levels in the Government that are represented by the commission's jurisdiction. I hope we are not seeing the time when we are going to go back to the concept of getting around to look at this matter every 10 or 15 years and towards the concept that we would take up pay increases only in nonelection years. I for one would advocate it whether it is in an election or nonelection year, whether I am up for election or the Senator is up for election. I think equity requires the concept of comparable pay for comparable work and that it should be the guideline for Federal pay.

Mr. FONG. I will say to the Senator from Alaska he should not be pessimistic and should not be depressed because, in view of the debate we have carried on in the way of enlightenment and education, I think we have educated and have enlightened many of our colleagues who did not understand the basic principle of how this pay adjustment was made. I think now they are beginning to realize there is a gross inequity for those in the upper echelons covered by this resolution. They are now beginning to feel something must be done. After listening to the words of the distinguished majority leader, the Senator from Wyoming, or, I should say, the Senator from Montana——

Mr. McGEE. I heard the Senator the first time.

Mr. FONG. I hope some day the distinguished Senator from Wyoming will be the majority leader, but after hearing the distinguished majority leader say that, somehow, we should consider tying the cost-of-living increase to the salaries which now exist, I have taken heart, and I think, we can go back to committee and work out a reasonable solution. I hope the majority leader will accept the recommendation of the committee and something will be done for the 10,000 top echelon employees who are now at the ceiling and who have no prospect of any increase for the next 4 years if nothing is done by us. I do hope we will be able to work out a solution.

Mr. STEVENS. Mr. President, I thank the Senator.

I withdraw all my amendments.

The PRESIDING OFFICER. The amendments of the Senator from Alaska are withdrawn.

Mr. CURTIS. Mr. President——

Mr. McGEE. Mr. President, I have the floor. We have a unanimous-consent agreement to vote in 3 minutes. I promised to respond to the Senator from Vermont, who wanted to ask a question about the pay commission.

Mr. AIKEN. How was the commission which makes these recommendations made up?

Mr. McGEE. The commission established in 1967 is made up of 9 members, 3 of them appointed by the President, one of whom being designated as chairman by the President; two members appointed by the President of the Senate; two appointed by the Speaker of the House of Representatives; and two appointed by the Chief Justice of the United States.

Mr. AIKEN. Why did Congress transfer its responsibility to an agency which we might say is more associated with the executive branch? Why did not Congress itself undertake this responsibility?

Mr. McGEE. Congress had four of its Members on the commission.

Mr. AIKEN. Out of 11.

Mr. McGEE. Two from the Senate and two from the House. There was a commission level as the legislation was drawn, but it was established as a result of previous experience, namely, to try to get an outside group to make a judgment, so that the Congress would not be accused of feathering its own nest or carrying its own water—whatever you want to call it. Those recommendations were to be submitted to the President, who would submit them to Congress. Congress reserved to itself the right to disallow them. But the reason for the formula was that Congress ought not to do it.

Mr. AIKEN. How much better would it be to have Federal judges on the commission than to have Congress fixing its own salaries.

The PRESIDING OFFICER. The time of the Senator has expired. The question is on agreeing——

Mr. AIKEN. Because a large part of those salaries now proposed relate to salaries on the judiciary system.

Mr. ABOUREZK. Mr. President, there is another element of this pay raise which I believe merits Senate recognition and debate. While it is my understanding that this particular measure is immune from amendment except for specific provisions in the resolution itself, I nonetheless believe that a comment ought to be made here in regard to the thousands of Federal employees who are receiving military retirement pay in addition to their regular salaries.

Most experts estimate that there are currently about 100,000 military pensioners holding Federal jobs—all of whom received their fourth pay raise in a year last January 1.

While most Federal workers and retired military people got two raises in a year, the estimated 100,000 so-called double-dippers got four because they are on the Federal payroll and military pension at the same time.

In two reports issued by the National Taxpayers Union, W. Sidney Taylor, the national research director, called the Dual Compensation Act of 1964 an "outrageous raid" on the U.S. Treasury. According to the NTU reports, there are some 300 "unretired retireds" who could be affected by this pay raise and are now making over $50,000 a year—while their colleagues who are sitting at the next desk are limited to $36,000 annually.

According to a Civil Service Commission study, the average military pension is about $6,000. About half of the military pensioners earn $12,000 to $21,000 at their Federal jobs and receive their pensions in addition.

Taking the current estimate, however, of 100,000 "double-dippers" at the average pension of $6,000; this Government is currently spending over $600 million—over half of a billion dollars—annually to fatten up the pockets of thousands who no more need their pensions than we need a cold.

The NTU study also claims that there are even "double-dippers" in the White House and in the Congress. According to the report, there are at least 45 pensioners in the White House and another 15 in the Congress. Even more Congressmen are now holding Reserve commissions.

Mr. President, the NTU study makes a very profound argument in their charges that the double dippers take jobs from the unemployed, stymie promotions and give the military too much control over other Federal civilian agencies.

This is not meant to put the blame on the military pensioners. In fact, the retired regular officers are not permitted to take their full pensions while serving in their Federal jobs. In addition, there are many military retirees who require their pensions and who are in the lower levels

of our government bureaucracy. But, certainly there is a point where the excess pension money needs to be revoked.

I believe that at least those military pensioners receiving $36,000 per year should be the first to be considered in a stricter dual compensation law.

I sincerely hope that in the months ahead, my colleagues in the Senate will express their views on this matter in an effort to give this question the full debate which it is entitled to.

I ask unanimous consent that the reports of the National Taxpayers Union be inserted into the RECORD.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

TAXPAYERS OPPOSE CONGRESSIONAL PAY RAISES

WAHINGTON, D.C. February 19, 1974.—In a letter to Congressman Thaddeus J. Dulski, Chairman of the House Post Office and Civil Service Committee, the National Taxpayers Union today strongly opposed the White House proposal for a 22% pay raise (over 3 years) for Senators, Congressmen, Presidential appointees, Federal judges and supergrade (GS–16 and up) Federal employees.

Some of the key points made by Sid Taylor, Research Director for the NTU were:

"This special pay raise for the 11,400 Federal officials or employees at $36,000 a year and higher salaries lacks "legislative accountability". As submitted, it constitutes "deceptive democracy". It will automatically become law in 30 days and without any *recorded vote* by Congress. Nobody will know who voted for or against it. This introduces a new trend towards "painless spending" in Washington. This type of legislative malpractice ignores the inflationary pain—being passed on to the American taxpayer. This is not merely a distortion of law making. It is a real threat to representative government in America. Congress should have the courage and integrity to stand up and vote on its own pay raise. It should not abdicate this important function to the White House."

"This pay raise introduces serious questions as to the propriety and constitutionality (separation of powers) of having the Executive Branch raising the salaries of the Legislative Branch of government. In view of possible impeachment action by Congress, this White House pay raise proposal for Congress is somewhat like a defense attorney giving the jury a pay raise in the middle of the trial."

"A serious defect in the analysis preceding this pay raise proposal is the fact that it overlooks the number of *retired military* now in high grade ($36,000 a yr and up) Federal jobs who also collect dual compensation. Some Senators and Congressmen fall into this category (Double Dippers). NTU estimates that there are now about 300 Federal officials or employees at the supergrade and above pay levels who are collecting dual compensation. With the new pay scales, many of these so called Double Dippers will be collecting well over $50,000 a year (combined pay and pension while "retired" on the Federal payroll. This windfall for the professional retired military was made possible by the Pentagon sponsored Dual Compensation Act of 1964 (PL 88–448)."

"This Act permits the professional military as an exclusive group (no other Federal retirees are allowed to do this including Civil Service and Social Security retirees) to collect their full Federal pay and Federal pension while "retired" on the Federal payroll. It is an outrage against the American taxpayer who is being made to pay "double" to militarize his own Federal government in Washington. Giving these officials or employees at $36,000 a year salaries and up—who also collect dual compensation—a 22% pay raise is like sending food stamps to J. Paul Getty or Howard Hughes."

"We are not against hiring retired military in high grade Federal jobs if they are capable and competitively selected. We are against paying them 'double' while on the Federal payroll. With an all time record Federal budget of $304 billion and a possible $22 billion deficit for FY 75—the continuance of dual compensation for Federal officials is not only inflationary and a form of Pentagon Fat—it is a 'high crime' against the American taxpayer."

"Outdated Federal pay raise legislation has created an 'Inflation Frankenstein' in Washington. Endless, automatic combined military and civilian pay increases are a primary source of American inflation—and reason for the swollen Pentagon budget of $85 billion. American business and industry cannot compete with, nor the taxpayer support, a self-pay raising Federal bureaucracy of 5,054,261 personnel (military and civilian) with a payroll cost to the taxpayer of $56 billion a year. Inflationary pay raises are providing statistics (Bureau of Labor Statistics) that justify another cycle of even more Federal pay raises. Pay raises are creating pay raises."

"The American taxpayer is also being kept in the dark about the approximately 100,000 Federal employees (below supergrade or $36,000 a yr) who as professional military retirees are also collecting dual compensation. This new and expensive breed of double-pay, unretired-retired, Federal bureaucrat just received a 5.5% military pension increase on 1 Jan. 1974. They are also scheduled for a new Federal military-civilian pay raise in Oct 1974. In hidden defense payroll/pension costs, the Dual Compensation Act windfall is now costing the American taxpayer about $600 million a year!"

"When Harry Truman was President, military retirees were limited to a dual compensation 'ceiling' (combined Federal pay and pension) of $3,000 per year. Under President Eisenhower this was raised to $10,000 a year. Under President Lyndon Johnson, the ceiling was completely removed and today about 95,000 military retirees on the Federal payroll have *unlimited* dual compensation. Even welfare and social security recipients are not allowed this windfall. The only exception is retired regular officers (only 5% of the 100,000) who are limited to about 60% of their pension. It may be historically significant that LBJ who signed the Dual Compensation Act into law was a reserve Navy Commander himself."

"A danger exists in the growth 'Pentagon Connection' of having professional military retirees collecting dual compensation in key Federal jobs throughout the government. Some are now in key positions in the White House, the Senate, the House of Representatives, the General Accounting Office, the Civil Service Commission and even supporting units of the Supreme Court."

"In summary, and as anti-inflation measures, the NTU recommends:

1. All Federal pay raise or spending legislation from now on should be enacted into law only by a *recorded vote* by the members of Congress.

2. If a Congressional pay raise is enacted into law, it should be limited to 7% (instead of the proposed 22%).

3. As part of the Congressional pay raise legislation, an amendment should be made to the Dual Compensation Act of 1964 (PL 88–448) as follows: "No Federal official or employee (including members of Congress) shall be permitted to collect dual compensation while on the Federal payroll in any Federal job or position with a salary or pay scale that exceeds $36,000 per year."

4. Congressional hearings should be held, before Oct. 1974, date of next Federal military-civilian pay raise) to investigate the costs, impact and dangers of the Dual Compensation Act of 1964."

DOUBLE DIPPERS DIPPING DEEPER

WASHINGTON, D.C., December 28, 1973.—"As of 1 January 1974, more than 100,000 military retirees now collecting 'dual compensation' in jobs on the Federal payroll will also get a cost of living increase of 5.5%. Officers with regular commissions will also get a 'dual compensation exemption increase from $2895 to $3054 a year according to Sid Taylor, Research Director of the National Taxpayers Union." Taylor a World War II veteran (infantry and Air Force) also said:

"The Dual Compensation Act of 1964 (PL 88–448) which permits this raid on the U.S. Treasury is an outrage against the American taxpayer who is being made to pay 'double' to militarize his own Federal government in Washington."

"Some Double Dippers in Federal jobs now have a combined pay-pension income of over $50,000 a year. Social Security retirees, Civil Service retirees or un-retired veterans of Viet Nam, Korea or WWII are not allowed dual compensation while on the Federal payroll."

"There are even 15 military retiree "Double Dippers" in Congress itself. These include such notables as Congressman Carl Albert, Speaker of the House (a retired Army Colonel) and Senators Barry Goldwater, Howard Cannon and Strom Thurmond—three retired Major Generals. There are also an estimated 45 Double Dippers on the White House staff. Retired Army General Alexander M. Haig, Jr. is the highest placed Double Dipper in the Executive Branch. In Congress, Speaker of the House Carl Albert qualifies as the 'Big Dipper' with a combined pay/pension of $66,270 a year. General Haig in the White House as Assistant to the President by comparison struggles along on a Federal salary of $42,500 per year plus a dual compensation military pension of $14,400 a year."

"Pension increases for military retirees now collecting 'dual compensation' in Federal jobs is a kind of Reverse Robin Hood. It is not only taxing the poor to aid the rich, it is like sending food stamps and extra welfare checks to all Cadillac owners."

"Dual compensation for some members of Congress, in an era of soaring inflation, government deficits and oppressive taxation, casts a shadow of impropriety over the entire legislative branch of government. Double Dippers on the White House payroll raises a question of the ability of the Executive Branch to combat inflation or control government spending."

"A deadly side effect of the Dual Compensation Act is that it is using taxpayer's money to subsidize and create a 'Pentagon Junta' of military retirees in almost every office and Agency of the Federal government today. Federal Agencies such as Defense, Dept. of Transportation, Treasury, VA, NASA, Interior, Commerce, Labor, HUD, HEW and even the Civil Service Commission are being loaded down with Double Dippers in key jobs. Nobody knows how many are in the CIA, FBI, NSA, GAO or other special agencies such as the Postal Service. Even the new Office of Petroleum Allocation in the Interior Dept was headed until recently by a retired Admiral (Eli Reich). The Washington Metro Subway System (a $3 billion taxpayer disaster area) is managed by a retired Army General collecting dual compensation. This militarization of almost all Federal

Agencies directly stems from the dual compensation windfall for the military brass."

"Like farm subsidies where the farmer gets paid for NOT farming, the professional Pentagon military now get paid for NOT retiring. This is creating an entirely new and expensive breed of Federal bureaucrat—the 'unretired retired' who get paid double while on the Federal payroll. This special pay/pension subsidy almost insures a completely militarized Federal Civil Service by 1984."

"We are not against hiring retired military in Federal jobs if they are fairly and competitively selected. We are against paying them double. We are also against 'stealing' Federal jobs through the Pentagon Buddy System of collusive hiring and promotion. We are also against loopholes that allow military retirees to raid the Civil Service Retirement Fund by pension recomputation after 5 years on the Federal payroll. This Fund has an unfunded liability of over $68 billion. The military retirement fund is even worse off with an unfunded liability around $137 billion."

"The Pentagon 'Buddy System' of hiring and promotion—fueled by the Dual Compensation Act of 1964—is creating the biggest Federal job 'spoils system' in Civil Service history. This time it's the military and not the politicians that are raiding the system. NTU estimates that 1 out of every 5 Federal job hirings or promotions involving military retirees are done in violation of public laws or Civil Service regulations prescribing merit promotion, competitive selection or equal employment opportunity. Ironically, thousands of unemployed or unretired veterans are among the victims of these lost or stolen Federal job opportunities."

To reduce government costs and avoid the peril of a "militarized" Congress, Sid Taylor proposes that:

1. President Nixon as Commander in Chief should terminate the *military reserve commissions* of:

(a) All *members* of Congress (Senators or Congressmen) while they are in public office and voting on defense legislation or military benefits or spending.

(b) All *employees* of the Legislative Branch—particularly key Congressional staff aides and General Accounting Office (GAO) analysts who are directly involved in preparing or reviewing defense legislation or military spending.

2. The 15 members of Congress now receiving "dual compensation" in military retirement pensions from the Pentagon should voluntarily relinquish these monies while they are in public office.

3. The President, Congress and the American taxpayer should insist upon full scale Congressional investigation and hearings into the costs and dangers of the Dual Compensation Act of 1964.

Mr. JAVITS. Mr. President, a deep sense of being treated unfairly as to salaries prevails among the Federal court judges. This has been vividly and sincerely expressed in a letter to me from 24 of the 29 district court judges in the southern district of New York.

Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEBRUARY 7, 1974.

Hon. JACOB K. JAVITS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: Federal judges, now slated (along with members of Congress and others) for a 7.5% pay increase in each of three successive years, have had no increases in five years. Anyone who deserves to be on the bench in this area could earn at least three or four times his current salary in private practice. While it is not suggested that judicial salaries should be comparable, the modest adjustment now proposed (still leaving us below the earnings of junior partners in law firms) seems minimal.

In these circumstances, we, the undersigned district judges, respectfully suggest that those opposing the increase do not adequately appreciate the problem as it affects the judges of the lower federal courts. If members of the Congress mean this opposition for themselves alone, the position may be different. As to judges, however, whose freedom to earn extra money is (as it should be) sharply circumscribed, there is no justification whatever for withholding the long overdue adjustment. Salaries of judges have been frozen at 1969 levels while most federal employees have enjoyed cost-of-living increases almost annually with the result that their current compensation is approximately 30% above 1969 rates.

We take the liberty of urging, earnestly and respectfully, that you resist the efforts to veto the increase as it applies to judges.

Very truly yours,

David N. Edelstein, Marvin E. Frankel, Morris E. Lasker, Kevin Thomas Duffy, Constance Baker Motley, John M. Cannella, Robert J. Ward, Dudley B. Bonsal, Murray I. Gurfein, Thomas P. Griesa, Lawrence W. Pierce, Whitman Knapp.

Lloyd F. MacMahon, Milton Pollack, Edmund L. Palmieri, Frederick vP. Bryan, William C. Conner, Arnold Bauman, Irving Ben Cooper, Charles H. Tenney, Robert L. Carter, Charles M. Metzner, Inzer B. Wyatt, Harold R. Tyler, Jr.

Mr. JAVITS. Also I believe that the top officials of the executive and legislative branches have a fair case for the increase recommended by the President's Commission. There has not been a pay adjustment for these people in 5 years when the Consumer Price Index has risen 29.5 percent. In addition the salaries in private enterprise have risen from 25 to 30 percent for comparable jobs. The recommendation of the President's Commission are consistent with cost of living guidelines and are necessary if the Federal Government is to continue to attract and keep top talent. This is certainly money well spent and I do not believe it would be wise to further defer these increases.

Mr. BUCKLEY. Mr. President, we have heard a lot of pieties uttered during the course of this debate. Let us be frank, and admit that our reluctance to allow the proposed pay raises to go into effect is motivated not by a concern for the budget. not by any real doubt that the raise is justified by objective standards, but by political cowardice; and in the process, we are holding hostage recommended raises affecting more than 15,000 Federal judges and senior civil servants.

Since the pay levels were established for these men and women 5 years ago, the cost-of-living index has risen by 29.3 percent. During the intervening years, average hourly earnings in the nonfarm economy have risen 29.5 percent, and the executive pay in private enterprise has risen between 25 and 30 percent. Over the past several years, we have routinely voted cost-of-living adjustments for every other category of Federal employees. Why the Senate now balks at a proposal that would result, over the next 3 years, in a 22.5-percent adjustment is beyond me. If we assume a 5-percent rate of inflation between now and 1977, the proposed adjustments would mean that over the 8-year period since the last pay adjustment in 1969, all of us—the Congress, Federal judges, senior public servants—will have experienced a net 22½-percent reduction in the purchasing power of our pay.

There are those who will say, I know, that we have all been overpaid in the first instance. To this I will make just two comments: The first is that in my own State, there are well over a hundred individuals on the New York State payroll who are receiving more than we are now, and I understand that this number is due to double in the next year or so. Many of these New Yorkers are currently receiving substantially more than the amount we would be receiving after the third incremental increase became effective in 1976. Second, the base pay scale was set below the levels recommended 5 years ago by an independent commission that made a careful comparison between the pay received by Members of Congress, judges, and senior Federal executives, and the pay received in comparable jobs elsewhere in the country.

What concerns me most about the adoption of the Church-Dominick amendment, which will process the pay scales at the levels set in 1967, is that it will become increasingly difficult to attract to the Federal Government the kind of talent we need. I personally have found that a number of highly qualified lawyers are disqualifying themselves from service as Federal judges, because of the financial sacrifices that would be entailed if they took the jobs. To attract qualified individuals, the salaries must be commensurate with those paid in the private sector.

Mr. President, on the merits, the case for a pay raise is undeniable. That the political qualms of Members of this body will cause a rejection of the proposed increases is all too apparent. But it is not my understanding that decisions should be made here on the basis of politics, but on the basis of merit. Therefore, I will vote against the Church-Dominick amendment.

CONGRESSIONAL PAY INCREASE NOT JUSTIFIED

Mr. EAGLETON. Mr. President, as Senators we have been chosen to represent, to the best of our abilities, the hopes and aspirations of the American people.

We will succeed in solving the serious problems that confront our Nation only when we engender the confidence of the citizens we represent. In 1974, cynicism has replaced confidence in every corner of this land.

As Americans sit in gas lines, they wonder if Senators and Congressmen and

Government executives are also sitting in gas lines.

As Americans pay as much as 20 percent more than they did last year, they wonder if Senators and Congressmen and Government executives feel the same pinch on their weekly budgets.

As Americans wait for the solutions to their economic problems, they wonder if Senators and Congressmen and Government executives can really know and understand their plight.

The most important domestic concern for the American people today is inflation. Hardly a day goes by without some new announcement about economic crisis—about the cost of living increasing or wholesale prices going up. There are no easy answers involving fiscal and monetary manipulations.

Today we not only experience galloping inflation, we also have economic stagnation which may cause a fall off in the gross national product by as much as 4 percent in the first quarter. A new word has even been coined to describe the current condition—"stagflation."

It is an important time for those of us in positions of responsibility to demonstrate that sacrifice must be made if we are to pull America out of its economic tailspin. This pay increase being requested by the administration is perhaps only a drop in the bucket compared to the vast spending that takes place on the Federal level.

But our pay has come to symbolize the plight of the average workingman, and it is up to us to make the sacrifice.

Mr. President, I am sorry that we have had to spend so much time debating the subject of our own proposed pay increase. But in these extraordinary times, the subject we discuss today may well bear on the ability of Government itself to retrieve the confidence of the people.

If such is the case, and if we act as we properly should to reject this ill-timed proposal, the time we have spent on the floor of the Senate this week may well contribute to the beginning of the end of cynicism in this country.

Mr. STEVENS. Mr. President, one of the most consistent comments I have received lately on the entire question of pay increases deals with the merits of the matter. The Washington Post's astute observer on the Federal scene, Mike Causey, addresses himself to the question of merit in a recent column. I ask unanimous consent that this column be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MERITS OF PAY RAISE ARE IGNORED

(By Mike Causey)

The legislative rain dance over a "congressional" pay raise is embarrassing, stupid and has almost nothing to do with the merits—or demerits—of the case.

Because of the bad political timing of Mr. Nixon's belated pay proposals our elected officials, saints and snakes, liberals and conservatives, family men, churchgoers, statesmen and hacks have all had to act like eleven-year-old boys sneaking a smoke in the washroom.

House members who are champions of a more honest and open government last week skulked away from a Post Office-Civil Service Committee meeting so they would not be forced to cast an honest and open vote on a politically loaded question which is, what are they worth?

Yesterday, the counterpart Senate committee voted 6-3 to exclude any members of Congress from raises for the next two years, although most congressmen want it and are already planning ways to get it come next January.

Most of the public ire and press attention over the administration-backed pay raises has been directed at the 535 members of Congress who would receive a 7.5 per cent raise next month, their first in five years. They would get another 7.5 per cent next year, and a final 7.5 per cent in 1976. The cost would equal the money "lost" to the taxpayers when the government shut down here because of a 2-inch snowfall.

Waiting in the wings, while Congress decides what it should do about a $2,200 per member raise (from the current $42,500) are 842 federal judges and court officials, 600 political appointees and 10,000 top career executives, VA medical personnel and Foreign Service officeers.

The political appointees and judges are held down because of the congressional pay ceiling, and career federal civil servants in turn are held down by the political salary lid.

The complicated federal-executive salary system is based on a law that says the President, Chief Justice and leaders of Congress should appoint an outside panel every four years to study pay. That panel is supposed to report to the President who in turn is supposed to pass along his recommendations as part of the next federal budget.

To avoid exactly what has happened this week, the law was set up so that the pay recommendations are made in non-election years. President Nixon threw that out of whack when he did not appoint his panel members in time, so that the recommendations could have been made in early 1973.

That action of the Senate Committee yesterday, if upheld by the full Senate, would be to deny—in theory—raises this year next and in 1976 to congressmen while non-elected political officials get them. The Senate is more likely to kill the pay proposals for everybody, which will mean added pay "compression" problems for career federal workers.

Rank-and-file federal pay has gone up from 25 to 31 per cent (depending on whose statistics are at hand) in the past five years. Once officials reach the $36,000 level, however, they are "frozen" because that is the present maximum. Currently there are 10,000 civil servants at that level, although they hold a wide variety of jobs and responsibility.

The General Accounting Office has warned that the lack of pay raises and differentials at the top of the civil service will cause the best officials to retire, and has already caused top talents to refuse promotions because the added responsibility doesn't carry any added money.

Many members of Congress still remember the public beating they took in March 1969, when they permitted themselves a 41 per cent pay raise. It had been five years then since Congress had dared ask the taxpayers for more money, and ten years before that. If Congress keeps putting off a pay raise until it feels the political climate is safe, we may be in for another 41 per cent whopper.

There is an outside chance that the Senate might reverse its Post Office-Civil Service Committee this week, and vote that everybody get a 7.5 per cent raise effective next month. More likely, it will kill the pay raise proposals for itself, for judges and political and career appointees.

If that happens, you can bet there will be a pay raise proposal in 1975 that will make the present three-step 22 per cent raise seem downright modest.

Meantime, more career workers will be bunching in at the same pay levels, more good lawyers will refuse federal judgships and more hard-pressed, nonmillionaire elected officials will dip into their stationery funds and other back-door accounts to help make ends meet.

The PRESIDING OFFICER. The question is on agreeing to the Church-Dominick amendment, No. 991. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. METCALF. On this vote I have a pair with the Senator from Nevada (Mr. CANNON). If he were permitted to vote, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The result was announced—yeas 69, nays 28, as follows:

[No. 56 Leg.]

YEAS—69

Abourezk	Fannin	Mondale
Aiken	Fulbright	Montoya
Allen	Goldwater	Moss
Bartlett	Gravel	Muskie
Bayh	Gurney	Nelson
Bellmon	Hansen	Nunn
Bentsen	Hartke	Packwood
Bible	Haskell	Pastore
Biden	Hatfield	Pell
Burdick	Hathaway	Randolph
Byrd, Harry F., Jr.	Helms	Ribicoff
	Hollings	Roth
Byrd, Robert C.	Hruska	Schweiker
Chiles	Humphrey	Sparkman
Church	Jackson	Stafford
Clark	Johnston	Stevenson
Cook	Long	Symington
Cranston	Magnuson	Taft
Curtis	Mansfield	Talmadge
Dole	McClellan	Thurmond
Domenici	McClure	Tower
Dominick	McGovern	Young
Eagleton	McIntyre	
Ervin	Metzenbaum	

NAYS—28

Baker	Griffin	Percy
Beall	Hart	Proxmire
Bennett	Huddleston	Scott, Hugh
Brock	Hughes	Scott, William L.
Brooke	Inouye	
Buckley	Javits	Stennis
Case	Kennedy	Stevens
Cotton	Mathias	Tunney
Eastland	McGee	Williams
Fong	Pearson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against.

NOT VOTING—2

Cannon	Weicker

So the Church-Dominick amendment (No. 991) was agreed to.

SENATOR RANDOLPH OPPOSES PAY RAISES AT THIS TIME

Mr. RANDOLPH. Mr. President, I am opposed, as I have said earlier, to pay raises for legislative, executive, and judi-

cial officers, which also includes senior military officials. This is not an appropriate time for top officials of Government to receive pay raises. We are talking about raising those who presently receive $36,000 or more a year.

Citizens are faced with problems so acute that they cause great anxiety, uncertainty, and a pessimistic mood throughout our Nation. The family food and fuel shoppers are faced with long waiting lines and skyrocketing costs and tempers are wearing short. The mood of the Nation is reflected in some cases by pent up emotions being released in an uncharactistically hostile manner.

More than ever the people are looking for leadership and affirmative action by their Government.

Mr. President, we have had real difficulty in passing legislation to help cope with the fuels and energy crisis. The Congress has not enacted measures to control inflation. These are two vital national problems that impact all citizens, particularly low- and middle-income. Americans generally will be disappointed if the Congress establishes a high priority for the salaries of its Members. They will not be fooled by the easy enactment provisions of the pay raise which go into effect by an unusual procedure of Presidential recommendations becoming law unless disapproved by either House of Congress.

What of the other levels of Government? What are the salaries of our Governors and State officials? We should tighten our belts. There are certain expenses that are allowed for Governors. But in most States their salaries are not adequate, especially when compared to the Congress.

Mr. President, I urge the Senate to disapprove the entire recommendation for pay raises by the President.

We well know we are in an almost unparalleled inflationary economy and when we set a precedent we will surely signal to others to do the same. There are citizens whose salaries we control by legislation and they are more desperate and in greater need. How will we answer them? I speak of the retired Government worker, the handicapped, and disabled. Will we tell them that our salaries come first?

I call attention to information compiled by the Council of State Governments. This information was current as of late 1973.

The only States paying their Governors more than a Member of Congress receives are:

California	$49,100
Georgia	50,000
Illinois	50,000
Michigan	45,000
New Jersey	50,000
New York	85,000
Ohio	50,000
Texas	63,000

Mr. President, I am convinced that the case against pay raises, at this time is strong. The Senate, I believe, will register its disapproval by a large majority.

Mr. STEVENS. Mr. President, as this body knows, I strongly support the concept of fair and equitable pay for those who govern and administer this Nation. We will soon again be debating various resolutions dealing with the President's pay proposal for the executive, judicial, and legislative branches. Two of this Nation's most esteemed newspapers, the Chicago Tribune and the New York Times have recently expressed their opinions in editorials. I ask unanimous consent that these editorials be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Feb. 11, 1974]

FACES—SHUDDER—A PAY RAISE

The above editorial suggests why Congress may do something few would expect of it—reject a pay raise.

President Nixon has proposed a three-step raise for federal judges, members of Congress, cabinet officers, and government administrators which would amount to about 7.5 per cent a year for the next three years.

District court judges would go from $40,000 to $49,700 a year by 1976. Members of Congress and appeals court judges would go from $42,500 to $52,800. The $36,000 a year ceiling on civil service administrators' salaries would be increased to $44,700.

Cabinet officers and Supreme Court justices would have their salaries raised from $60,000 to $64,500 by next year.

Under the law, Congress does not have to take any affirmative action for the raises to go thru, but it can reject them. Many senators and congressmen, jittery about an anti-incumbent sentiment prevalent in the country, feel that their constituents will not stand for another raise for lawmakers, especially after the howl that greeted the 42 per cent increase they received in 1969. Consequently, congressional rejection of the raises now seems probable.

This is unfortunate in many ways, for a case can be made for the increases, especially those for judges and civil service officials. If the raises are rejected, there will not be another chance for them until 1977, meaning that all those concerned would be without a raise for eight years.

Few wage earners can claim to have suffered that indignity.

The law ties all these salary schedules together in fixed ratios. Judges' salaries cannot be raised unless those for congressmen and civil service officials are, too. If Congress blocks its own pay raise, it will automatically block those for the others.

Yet there is need for an inducement for good judges, and at the existing salary scales many of them could do better in private practice.

The $36,000-a-year ceiling for administrators is not only unrealistic in these inflationary times, but has kept many of them at the same pay level as subordinates who have regularly been receiving cost of living increases.

The congressmen will have to thrash the matter out in their own consciences, but it would be a shame if the legitimate needs of the judiciary and the executive were sacrificed because of the lawmakers' political fears.

Whatever the congressmen decide, the fixed-ratio system ought to be junked. It is a form of "equal treatment" that is not equitable at all.

[From the New York Times, Mar. 1, 1974]

GAMES CONGRESS PLAYS

What with Watergate causing widespread public disenchantment with governmental performance at all levels, Congressmen are showing unaccustomed reticence about accepting the pay increase President Nixon wants them to start getting next year.

Congressional salaries were last increased in 1969, when they went up from $30,000 a year to the present $42,500. The effect of inflation entitles the legislators to another pay raise now, though it is questionable that it ought to be at the 7.5 per cent rate the President has proposed for each of the next three years.

So long as workers generally are still subject, at least theoretically, to the old Pay Board guidepost of 5.5 per cent, Congress would be well advised to go along with the suggestion of Chairman McGee of the Senate Post Office and Civil Service Committee that it hold its own projected increase within that figure.

Instead, parliamentary maneuvers in both House and Senate seem likely to create an impasse that not only will kill any action this year to boost Congressional pay but also will deprive Federal judges and all other top-level Federal officials of increases the President and his salary commission had decided they deserved.

In truth, raising executive pay within the Federal service without raising the salaries of Senators and Representatives would create unjustifiable distortions in the whole structure of governmental compensation. Congress and the White House have an urgent and essential task to fulfill in combating inflation—a task neither is performing with distinction—but denying legislators, judges and executives pay adjustments in line with those of other salaried workers is not the fair way to get on with that job.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution (S. Res. 293) as amended.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The result was announced—yeas 71, nays 26, as follows:

[No. 57 Leg.]

YEAS—71

Abourezk	Cranston	Hollings
Aiken	Curtis	Hruska
Allen	Dole	Humphrey
Bartlett	Domenici	Jackson
Bayh	Dominick	Johnston
Bellmon	Eagleton	Long
Bentsen	Eastland	Magnuson
Bible	Ervin	Mansfield
Biden	Fannin	McClellan
Brock	Fulbright	McClure
Burdick	Goldwater	McGovern
Byrd, Harry F., Jr.	Gurney	McIntyre
	Hansen	Metzenbaum
Byrd, Robert C.	Hartke	Mondale
Chiles	Haskell	Montoya
Church	Hatfield	Moss
Clark	Hathaway	Muskie
Cook	Helms	Nelson

Nunn	Roth	Symington
Packwood	Schweiker	Taft
Pastore	Sparkman	Talmadge
Proxmire	Stafford	Thurmond
Randolph	Stennis	Tower
Ribicoff	Stevenson	Young

NAYS—26

Baker	Griffin	Metcalf
Beall	Hart	Pearson
Bennett	Huddleston	Percy
Brooke	Hughes	Scott, Hugh
Buckley	Inouye	Scott, William L.
Case	Javits	Stevens
Cotton	Kennedy	Tunney
Fong	Mathias	Williams
Gravel	McGee	

NOT VOTING—3

Cannon	Pell	Weicker

So the resolution (S. Res. 293), as amended, was agreed to, as follows:

S. RES. 293

Resolution to disapprove pay recommendations of the President with respect to rates of pay for Members of Congress

Resolved, That the Senate disapproves all the recommendations of the President with respect to rates of pay transmitted to the Congress in the budget for the fiscal year 1975 pursuant to section 225(h) of the Federal Salary Act of 1967.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I was present and voted several times today on a cloture vote and on amendments to the resolution regarding pay increases for officials of the executive, judicial and legislative branches. On each vote I voted against such raises. However, on the vote on final passage of the resolution, I was delayed in reaching the floor, because I was between offices occupied with constituent business, and unfortunately arrived too late to cast my vote. I regret missing that vote, and wish to state for the RECORD that I would have voted in favor of the resolution disapproving the President's recommended pay raises for Members of the Congress.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 8245) to amend Reorganization Plan No. 2 of 1973, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. NUNN).

ENERGY EMERGENCY ACT—VETO

The PRESIDING OFFICER (Mr. HELMS). Pursuant to the previous order, the Chair now lays before the Senate the President's veto message on S. 2589, the Energy Emergency Act, which the clerk will state.

The legislative clerk read as follows:

A veto message on S. 2589, the National Energy Emergency Act.

The Senate proceeded to reconsider the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The Constitution requires that the vote shall be determined by yeas and nays.

Under the agreement, the time between now and 5 p.m. will be equally divided between and controlled by the Senator from Arizona (Mr. FANNIN) and the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, I ask unanimous consent that during the reconsideration of S. 2589 the following individuals have the privilege of the floor:

William Van Ness, Jr., Arlon Tussing, James Barnes, Jerry Verkler, Lorraine Maestas, Harrison Loesch, David Stang, Winfred Craft, Jr., Nolan McKean, Margaret Lane, Maureen Finnerty, Ron Frank, and Mike Hathaway.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUDDEN INFANT DEATH SYNDROME ACT OF 1974

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1745.

The PRESIDING OFFICER (Mr. HELMS) laid before the Senate the amendment of the House of Representatives to the bill (S. 1745) to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Sudden Infant Death Syndrome Act of 1974".

SEC. 2. Part B of title III of the Public Health Service Act is amended by inserting after section 318 the following new section:

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATION, AND STATISTICAL PROGRAMS

"SEC. 319. (a) The Secretary shall carry out a program to develop public information and professional educational information materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, public safety officials, and to the public generally.

"(b)(1) The Secretary may make grants to public and nonprofit private entities, and enter into contracts with public and private entities, for projects which include both—

"(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes of sudden infant death syndrome; and

"(B) the provision of information and counseling to families affected by sudden infant death syndrome.

No grant may be made or contract entered into under this subsection for an amount in excess of $50,000.

"(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(3) Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(4) Contracts under this subsection may be entered into without regard to sections 3648 through 3709 of the Revised Statutes (31 U.S.C. 529; 44 U.S.C. 5).

"(5) For the purpose of making payments pursuant to grants and contracts under this subsection, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1974, $2,000,000 for the fiscal year ending June 30, 1975, and $2,000,000 for the fiscal year ending June 30, 1976.

"(c) The Secretary shall submit, within two years following the date of the enactment of this section, a comprehensive report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the administration of this section and the results obtained from the programs authorized by it."

Mr. KENNEDY. Mr. President, I move that the Senate agree to the amendment of the House to the bill to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes, with an amendment in the nature of a substitute. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The substitute amendment is as follows:

In lieu of the matter proposed to be inserted by the House, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Sudden Infant Death Syndrome Act of 1974'.'

SUDDEN INFANT DEATH SYNDROME RESEARCH

SEC. 2. (a) Section 441 of the Public Health Service Act is amended by striking out "an institute" and inserting in lieu thereof "the National Institute of Child Health and Human Development".

(b)(1) Such section 441 is further amended by inserting "(a)" after "Sec. 441." and by adding at the end thereof the following:

"(b) The Secretary shall carry out through the National Institute of Child Health and Human Development the purposes of section 301 with respect to the conduct and support of research which specifically relates to sudden infant death syndrome."

(2) Section 444 of such Act is amended (1) by striking out "The Surgeon General" each place it occurs and inserting in lieu thereof "The Secretary", and (2) by striking out "the Surgeon General shall, with the approval of the Secretary" in the first sentence and inserting in lieu thereof "the Secretary shall, in accordance with section 441(b),".

(c)(1) Within 90 days following the close of the fiscal year ending June 30, 1975, and the close of each of the next two fiscal years, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives and to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives the following information for such fiscal year:

(A) The (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under

the Public Health Service Act for research which relates specifically to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

(B) The (i) number of applications approved by the Secretary in such fiscal year for grants and contracts under the Public Health Service Act for research which relates generally to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

Each such report shall contain an estimate of the need for additional funds for grants or contracts under the Public Health Service Act for research which relates specifically to sudden infant death syndrome.

(2) Within five days after the Budget is transmitted by the President to the Congress for the fiscal year ending June 30, 1976, and for each of the next two fiscal years, the Secretary shall transmit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Labor and Public Welfare of the Senate, and the Committees on Interstate and Foreign Commerce of the House of Representatives an estimate of the amount requested for the National Institutes of Health for research to sudden infant death syndrome and a comparison of that amount with the amount requested for the preceding fiscal year.

COUNSELING, INFORMATION, EDUCATIONAL AND STATISTICAL PROGRAMS

SEC. 3. (a) Title XI of the Public Health Service Act is amended by adding at the end thereof the following new part:

PART C—SUDDEN INFANT DEATH SYNDROME

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS

"SEC. 1121. (a) The Secretary, through the Assistant Secretary for Health, shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, to public safety officials, and to the public generally.

"(b)(1) The Secretary may make grants to public and nonprofit private entities, and enter into contracts with public and private entities, for projects which include both—

"(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes of sudden infant death syndrome; and

"(B) the provision of information and counseling to families affected by sudden infant death syndrome.

"(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. Each applicant shall—

"(A) provide that the project for which assistance under this subsection is sought will be administered by or under supervision of the applicant;

"(B) provide for appropriate community representation in the development and operation of such project;

"(C) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

"(D) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(3) Payments under grants under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(4) Contracts under this subsection may be entered into without regard to sections 3648 through 3709 of the Revised Statutes (31 U.S.C. 529; 44 U.S.C. 5).

"(5) For the purpose of making payments pursuant to grants and contracts under this subsection, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, $3,000,000 for the fiscal year ending June 30, 1976, and $4,000,000 for the fiscal year ending June 30, 1977.

"(c) The Secretary shall submit, not later than January 1, 1976, a comprehensive report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the administration of this section and the results obtained from the programs authorized by it."

(b) The title of such title XI is amended by adding at the end thereof "AND SUDDEN INFANT DEATH SYNDROME".

Mr. KENNEDY. Mr. President, I am delighted to bring before the Senate for final action S. 1745, the Sudden Infant Death Syndrome Act of 1974. The amendment that Senator MONDALE and I offer on behalf of the Labor Committee has broad bipartisan cosponsorship. This amendment has been worked out with the members of our counterpart committee in the House, which is chaired by my friend and colleague, PAUL ROGERS of Florida. I understand that this amendment is acceptable to the House.

Mr. President, the Health Subcommittee which I chair and the Subcommittee on Children and Youth which Senator MONDALE chairs conducted public hearings on this legislation last fall. At that time all of the witnesses who testified favored the enactment of S. 1745, except the administration.

SIDS claims 10,000 babies each year. It is the leading cause of death in infancy after the first month of life. No one yet knows what causes this tragic killer and that is why it is essential to expand the research program into the causes of this disease. The bill calls upon the National Institute of Child Health and Human Development at NIT to carry out this research program. And the bill requires the Department of HEW to report to the Congress on the scope and magnitude of this research program.

In addition, Mr. President, our hearings revealed that SIDS counseling, information, and educational programs are woefully inadequate. Accordingly the bill authorizes the Assistant Secretary for Health of HEW to carry out a program to develop public information and professional education materials relating to SIDS. In this respect the Secretary is authorized to make grants and enter into contracts. And for these purposes the bill will authorize a total of $9 million over the next 3 years. Mr. President, I strongly support this legislation. I believe it is needed. I know Senator MONDALE strongly supports it. And I want to take this opportunity to compliment him on the leadership he continues to demonstrate in this area. He is a tireless worker in this vital area.

Mr. MONDALE. Mr. President, I am very pleased that the Senate has agreed today to consider a series of amendments to the Sudden Infant Death Syndrome Act of 1974, and I hope that we will be able to pass the bill and send it on to the House and the President for his signature.

The legislation before us today is the outgrowth of 2 years of active Senate interest in and study of the problem of crib death or sudden infant death syndrome.

In this time, we have learned a lot about this phenomenon which strikes so unexpectedly and so tragically:

Although crib death touches at least 10,000 American families each year, most Americans know little about it.

Although medical researchers have explored a variety of hypotheses on the causes of crib death, none of them has been confirmed.

Although the National Institute of Child Health and Human Development calls it the largest cause of death in infants from 1 to 12 months old, SIDS is not even mentioned in Government statistics on infant mortality.

And, although SIDS was finally identified and described as a specific disease in 1969, large numbers of medical and legal authorities are not up to date on the research findings and implications of SIDS.

Perhaps the most shocking and disturbing aspect of this problem is what happens to the families whose children die of SIDS. Because the child dies suddenly and no medical explanation can be found, parents are sometimes unjustly accused by law enforcement authorities or even friends and neighbors—of responsibility for the child's death.

One young couple who lost a child told us that they had to move to another city because their neighbors were so suspicious that the child died because of some sort of negligence on the part of the parents.

As I mentioned, the Senate has taken an active interest in helping these families and in working to discover the cause of SIDS for more than 2 years. In January of 1972, my Subcommittee on Children and Youth held a hearing on SIDS. Following that hearing I introduced Senate Joint Resolution 206, which was passed by the Senate by a vote of 72 to 0 on June 7 of that year. The resolution was not acted on by the House. I request unanimous consent that the text of Senate Joint Resolution 206 be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 206

Joint resolution relating to sudden infant death syndrome

Whereas sudden infant death syndrome kills more infants between the age of one month and one year than any other disease; and

Whereas the cause and prevention of sudden infant death syndrome are unknown; and

Whereas there is a lack of adequate knowledge about the disease and its effects among the public and professionals who come into contact with it: Therefore be it

Resolved by the Senate and House of Representatives of the United States of

America in Congress assembled, That it is the purpose of this joint resolution to assure that the maximum resources and effort be concentrated on medical research into sudden infant death syndrome and on the extension of services to families who lose children to the disease.

SEC. 2. The National Institute of Child Health and Human Development, of the Department of Health, Education, and Welfare, is hereby directed to designate the search for a cause and prevention of sudden infant death syndrome as one of the top priorities in intramural research efforts and in the awarding of research and research training grants and fellowships; and to encourage researchers to submit proposals for investigations of sudden infant death syndrome.

SEC. 3. The Secretary of Health, Education, and Welfare is directed to develop, publish, and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers, and similar personnel and parents, future parents, and families whose children die, to the nature of sudden infant death syndrome and to the needs of families affected by it.

SEC. 4. The Secretary of Health, Education, and Welfare is further directed to work toward the institution of statistical reporting procedures that will provide a reliable index to the incidence and distribution of sudden infant death syndrome cases throughout the Nation; to work toward the availability of autopsies of children who apparently die of sudden infant death syndrome and for prompt release of the results to their parents; and to add sudden infant death syndrome to the International Classification of Disease.

Mr. MONDALE. I introduced a resolution, rather than a bill, in 1972 because representatives of the Department of Health, Education, and Welfare testified that they were deeply concerned already about SIDS and that no new authorizing legislation would be necessary to intensify their efforts.

Early in 1973, as a vehicle for further discussion and investigation into the problem, I introduced S. 1745, "to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes." I am deeply grateful to Senator KENNEDY, chairman of the Health Subcommittee, for his active role in developing this legislation and for his willingness to hold a joint hearing with the Subcommittee on Children and Youth on SIDS.

Our 1973 hearing, on September 20, focused on the need for humane and sensitive treatment of families whose children die of SIDS. Among the witnesses were Mr. and Mrs. John Smiley of California, who were jailed for 2 days in connection with the death of their infant daughter. They were released from jail and charges against them dropped after they received the assistance of an attorney from a national organization that works with families whose children die of SIDS.

During that hearing we also received testimony from officials of the Department of Health, Education, and Welfare. They testified that in the year and a half since they last appeared before the Senate, no efforts had been undertaken to provide assistance to families who lose children. No funds had been devoted to the training of social workers, coroners, nurses and other personnel who must be informed if they are to work sensitively with families of SIDS victims. And only $601,000 was spent in fiscal year 1973 on research directly related to finding a cause and cure for SIDS.

We decided, on the basis of this disappointing record, that we could not wait any longer for this initiative to come from HEW. The Senate approved a more comprehensive, stronger version of S. 1745 on December 11 of 1973. On January 21 of this year, the House approved a different version of the bill.

The legislation before us today is what I believe will be an effective compromise between the House and Senate bills.

Before I explain the changes, I request permission to insert in the RECORD an excerpt from the Senate Labor and Public Welfare Committee report on S. 1745.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. PURPOSE

The purpose of S. 1745 is to provide financial assistance to identify the causes and preventive measures needed to eliminate Sudden Infant Death Syndrome and to provide information and counseling services to families affected by Sudden Infant Death Syndrome and to personnel who come in contact with the victims or their families.

II. LEGISLATIVE HISTORY

On May 8, 1973, S. 1745 was introduced in the Senate.

The Subcommittees on Children and Youth and on Health of the Committee held a joint hearing on S. 1745 on September 20, 1973. At that hearing, testimony was offered by representatives of the Department of Health, Education, and Welfare; representatives of organizations that serve parents who lose children to SIDS; parents who have lost children to SIDS; and medical examiners and other experts on dealing with SIDS cases. With the exception of the administration, all of the witnesses testified to the need for legislation respecting Sudden Infant Death Syndrome.

On October 10, 1973, the bill was favorably ordered reported with amendments by the Committee.

III. NEED FOR LEGISLATION

At least 10,000 babies die of SIDS each year in this country. The disease is the largest killer of infants between the age of one month and 12 months. No cause and no prevention are known for SIDS.

Because of the lack of public and professional knowledge about the disease, families who lose children suffer acute guilt feelings and other problems of readjustment to normal life.

Thus the need for this legislation falls into three major categories: research, services to families and statistics.

1. *Scientific research.*—At the committee's hearing, Dr. John S. Zapp, Deputy Assistant Secretary for Legislation at HEW, testified:

"The National Institute of Child Health and Human Development is now supporting 72 research projects aimed at understanding the Sudden Infant Death Syndrome * * * Research in related areas is critical to the development and clarification of our knowledge of S.I.D.S. and represents the best investment of our research funds at this time. Therefore, 11 research grants and contracts are specifically concerned with SIDS, and 61 grants and contracts are for studies related to the syndrome. FY 1973 support approximates $4.1 million compared with $3.5 million in fiscal year 1972.

"In fiscal year 1972, 21 research grant applications directly related to SIDS were reviewed by the National Advisory Child Health and Human Development Council. Seven were recommended for approval; two have been funded. Funding of three is anticipated this month; two will not be funded because of low scientific merit."

At the hearing, Dr. Russell Fisher, Chief Medical Examiner of the State of Maryland, stated that research efforts "might be made more responsive to the Sudden Infant Death Syndrome problem by earmarking funds for this special problem."

Saul Goldberg, president of the International Guild for Infant Survival, submitted to the Subcommittee a statement he presented in August to the House Subcommittee on Public Health and Environment. In this paper he said:

"This lack of substantial funding is further explained by government officials by a lack of 'meritorious research ideas' or 'qualified researchers.' Yet there are several potential researchers ready and willing to investigate SIDS in new and promising directions * * *"

The Committee believes it is clear that no permanent solution to the problem of SIDS can be found without a focused, concentrated, continuing medical research effort. Until the cause and cure for this disease are found, thousands of families will continue to suffer the tragedy of suddenly losing an apparently thriving baby.

2. *Information and counseling services.*—S.J. Res. 206, which was passed 72–0 by the Senate June 7, 1972 contains the following passage:

"The Secretary of Health, Education and Welfare is directed to develop, publish and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers and similar personnel and parents, future parents and families whose children die, to the nature of sudden infant death syndrome and to the needs of families affected by it."

The Committee believes that this is an accurate description of the types of programs required to respond humanely to families who lose children to SIDS. Information submitted to the Committee by HEW shows that $75,000—an increase of only about $8,000 over the previous year—would be spent on professional and public information and education activities relating to SIDS in 1974. Dr. Zapp testified that no funds have been spent on directly training medical examiners and other personnel who come into contact with SIDS cases.

The Committee believes that it is essential to provide training to these personnel in order to minimize the grief suffered by families who lose children and to maximize the results of research efforts.

At the hearing, Mr. and Mrs. John Smiley of California described an ordeal in which they were charged with manslaughter of their infant daughter who was later found to have died of SIDS. They were jailed for two days and charges against them were eventually withdrawn after they received the assistance of a lawyer from a national organization that works with families whose children die of SIDS. If law enforcement and medical personnel received adequate training in the diagnosis of SIDS; and in how to deal with parents whose child had recently died, experiences like that of the Smileys would be less likely to occur.

Mrs. Smiley testified that she had not known about SIDS until after her baby died. The Committee suggests that substantial feelings of guilt and misunderstanding could be alleviated if prospective parents were provided with information about SIDS.

Dr. Abraham Bergman, the recipient of a grant from the National Institute of Child Health and Human Development of NIH to study the handling of SIDS cases and president of the National Foundation for Sudden Infant Death, cited examples of several cases

in which parents were jailed before the cause of their child's death was diagnosed as SIDS.

"I do not want to give the Committee the impression that it is common practice to throw parents into jail when their babies die of crib death. I am aware of six such cases in the past year. There are probably more of which I am not aware, but even so it is a small percentage of the approximate eight thousand families who lost children to SIDS last year. This tip of the iceberg, however, is indicative of the ignorance about SIDS in the United States. The sad part is it is all so unnecessary. By the expenditure of a small amount of funds * * * and just the semblance of some action on the part of HEW, the human aspects of SIDS which cause an enormous toll of mental illness could be solved within two years."

Dr. Bergman also outlined the need for regional centers to deal with SIDS:

"A community wide system must be established for dealing with all cases of sudden unexpected infant death. It is not practical to expect every community to have the resources necessary to provide proper services. By proper services, I mean (a) performance of autopsies on all cases of sudden unexpected infant death (b) notification of the family by telephone or letter within 24 hours of the result of the autopsy, (c) the use of SIDS on the death certificate, (d) information and counseling about SIDS by a knowledgeable health professional. Small communities which lack trained pathologists cannot be expected to provide adequate service."

S. 1745 provides that "The Secretary, through the Assistant Secretary for Health and Scientific Affairs may make grants to public and nonprofit private entities for the establishment of regional centers for sudden infant death syndrome counseling, information, educational and statistical programs."

In most cases, the Committee suggests, research into SIDS could fruitfully be coordinated through these regional centers—one in each of the 10 regions currently designated by HEW. It is hoped that if all research within a given region is not specifically conducted by the regional center, that efforts will be made to establish the center as a focal point for information and services related to SIDS within that region.

3. *Statistics.*—The "statistical programs" referred to in Sec. 1121(a)(1) of the Committee bill would be expected to consist of compilation of the most comprehensive, reliable statistics possible concerning the incidence of SIDS within the region.

The Committee's bill also provides that the National Center for Health Statistics of the Department of HEW make a special effort to assure the comparability of local and state statistics relating to Sudden Infant Death Syndrome.

In that respect Dr. Bergman testified that the survey of the management of SIDS showed the need for development of standardized terminology and statistics on the disease.

"An incredible variety of terms were found on death certificates to describe presumed crib death. Only half of the 421 parents interviewed were told their baby died of SIDS or crib death. Eighty-three percent said that the verbal explanation provided at the time of death varied with the death certificate diagnosis, understandably leading to much confusion and bitterness."

IV. CURRENT RESEARCH AND STATISTICAL PROGRAMS

The National Institute of Child Health and Human Development has principal responsibility for federally-sponsored research on sudden infant death syndrome. Since its establishment in 1963 the NICHD has been increasingly concerned with the syndrome and has directed its efforts to enlarge our understanding of it. But progress had been slowed by two critical factors: (1) Few applications dealing with S.I.D.S. had been submitted to the NICHD for consideration, and (2) the lack of a code for the syndrome in the International Classification of Diseases made accurate mortality rates difficult to collect.

During the past two years, the NICHD has intensified its program of research to increase understanding of underlying mechanisms of the syndrome, to discover its probable cause(s), to identify infants at risk of becoming its victims, to explore preventive approaches, to inform the scientific community and public about the sudden infant death syndrome, and to stimulate scientists to direct their investigative efforts toward finding the solution to this complex problem. The Institute's program also includes plans (1) to learn more about the current status of management of S.I.D.S. cases in the United States; (2) to develop guidelines for use by coroners, medical examiners, and pathologists in reporting these cases; (3) to support interdisciplinary educational and research conferences and workshops concerned with the sudden infant death syndrome; and (4) to prepare and distribute scientific publications and public information documents.

In FY 1973, the NICHD supported 72 grants and contracts related to S.I.D.S. with a total budget of $4.1 million. In fiscal year 1974, it is projected that approximately $3.5 million will be obligated for S.I.D.S. research. This program has developed an investigation into the etiology of the syndrome and the psychological consequences of the event on parents and siblings. Seven priority areas are highlighted. These include:

1. Abnormal sleep patterns related to breathing and circulation and other functions essential to life.

2. Respiratory, cardiac, and circulatory responses to such stimuli as excess carbon dioxide in the blood or oxygen deficiency, which may make some babies likely to die of S.I.D.S.

3. The body's system for temperature regulation and its response to environmental conditions existing at the time of death from S.I.D.S.

4. The baby's developing immune system and how defects in development may predispose an infant to S.I.D.S.

5. The distribution of S.I.D.S. within the population and characteristics surrounding its occurrence in order to identify infants at high risk and to try to determine causes.

6. Studies of the structural and functional changes in tissues and organs which may be involved in S.I.D.S.

7. The psychological stresses experienced by the family and the community in which S.I.D.S. occurs.

These areas of emphasis grew out of a research planning workshop sponsored by the NICHD in August 1971. The workshop brought together investigators with scientific expertise in areas which could have a direct or contributing influence upon the cause of death in S.I.D.S. This meeting served to stimulate research in S.I.D.S. because many of those who met had not previously been directly involved in research on S.I.D.S., nor had they considered the relevance of their scientific work to S.I.D.S.

To further enhance this expanded program of research, the institute, between May and September 1972, sponsored five workshops relevant to the seven priority areas. The purpose of these workshops was to consider the problem at hand, to identify new approaches to the study of S.I.D.S., and to highlight specific research questions in need of in-depth study. A summary report for each workshop was prepared for publication. A seventh workshop, "Voids in Pathology in the Sudden Infant Death Syndrome," was held in the Spring of 1973. As a result of these conferences, a number of specific researchable questions were raised, and areas in need of further study and clarification were identified.

Immunologic Factors and Infectious Diseases Related to S.I.D.S.—A recent NICHD-supported study has suggested that viruses may act as "triggering agents" in some cases of S.I.D.S. A review of previously published research in the S.I.D.S. area has revealed a mild elevation of the antibody Immunoglobulin M (IgM) in association with the syndrome. This antibody is often found associated with recovery from a viral infection. Although this research suggests association of viral infection with S.I.D.S., no specific agent has been identified with the syndrome.

Studies are required to learn if S.I.D.S. might result from an inappropriate or overviolent response of the baby's defense system to a challenge by a virus or other stimuli. Endotoxins—poisons released from certain bacteria—are known to cause illnesses. However, little is known about the relationship between maternal endotoxin effects during pregnancy and infant reactions. Research may clarify whether S.I.D.S. may be the result of an allergy to endotoxin acquired before birth.

In addition, the workshops revealed that there is a significant lack of research concerning the development of the baby's immunologic system both before birth and shortly after birth. Such work is fundamental to identifying the relationship between infectious diseases, and S.I.D.S.

Heart and Lung Factors in S.I.D.S.—NICHD-supported research with an animal model suggests that S.I.D.S. might result from a failure to recover from a normal oxygen-conserving response—a reflex which includes a temporary halt in breathing, a slowing of heartbeat, and constriction of blood vessels.

The role of breathing and circulation in S.I.D.S., however, is still far from clear. Scientists attending one of the workshops suggested that although heart stoppage is probably not a primary factor in S.I.D.S., more research should be carried out to learn the potential effects of an immature heart adversely reacting to a wide variety of stimuli, including low oxygen in the surroundings and high carbon dioxide levels in the blood. Similar stimuli could also adversely affect the still-developing respiratory system.

Relatively little research has been done on the development of swallowing, vocalization, and breathing in the infant. It is conceivable, according to scientists, that uncoordinated activity in these three modalities could lead to respiratory obstruction and consequent lack of oxygen supply.

Other significant voids in our knowledge about S.I.D.S. warrant further attention. For example, much more needs to be learned about changes, at a microscopic level, in the tissues of the kidney, nasopharynx, larynx, and heart of S.I.D.S. victims.

Neurologic factors in S.I.D.S.—Many studies, including several supported by NICHD, have reported that most S.I.D.S. deaths occur during sleep and that death does not seem to involve an outward, violent struggle.

A great deal of research remains to be done in order to understand the complex relationships among sleep, the developing nervous system, and the maturing respiratory system and how they might be involved in S.I.D.S.

Sleep deprivation and the occurrence of S.I.D.S. following such an experience should be clarified, since it has been reported that immature animals may die in the sleep period immediately following sleep deprivation. It is known that increased rapid eye movement (REM) sleep, or periods of "light, active" sleep accompany sleep deprivation. It has been hypothesized that babies may die of S.I.D.S. during such periods of active sleep because their immature nervous, res-

piratory, and circulatory systems have a low tolerance for such circumstances.

Epidemiologic research in S.I.D.S.—Current epidemiologic data fails to differentiate S.I.D.S. from other causes of infant death and few risk factors have been elucidated which are specific for S.I.D.S. In addition, epidemiologic studies to date have been retrospective or "after-the-fact"; prospective studies are now needed. These could include studies relating maternal factors and events occurring at birth or just after birth to later occurrence of S.I.D.S.

There is need, according to workshop participants, for an internationally accepted definition of S.I.D.S. and uniformity in identifying as S.I.D.S. on death certificates, all sudden, unexplained, and unexpected deaths of infants.

Behavioral aspects of S.I.D.S.—A recently supported study by NICHD has indicated that one of the unsolved problems with S.I.D.S. is the lack of understanding extended to families of victims. Frequently, the study showed, parents are accused wrongly of neglect or child abuse and suffer deep feelings of guilt.

At present, very little is known about the personal, emotional, or social characteristics of parents who lost a child to S.I.D.S. It is not known to whom parents turn for help, nor the response they are likely to receive. The response of the community or community organizations to a death from S.I.D.S. and individual grief has not been investigated in depth. Studies need to be conducted to learn if problems of grief can best be handled by counseling from health professionals, through voluntary parents' organizations, or by other means.

Although much research has been undertaken to learn about response to death following long-term illness, little is known about the impact of an unexpected childhood death. In addition, studies need to be carried out to learn about the response of other children in a family which has lost an infant to S.I.D.S.

Classification.—The Department (NICHD and National Center for Health Statistics) has worked with the World Health Organization to create a separate category for S.I.D.S. in the 9th edition of the International Classification of Diseases.

V. COMMITTEE VIEWS

The Committee believes it has become essential to enact legislation specifically respecting SIDS in order to assure that programs of research, counseling, information and public education be effectively implemented.

On June 7, 1972 the Senate passed Senate Joint Resolution 206 relating to SIDS by a vote of 72–0. The basic purpose of that Resolution was to assure that the maximum resources and effort, through the Department of HEW, be concentrated on research into SIDS and on the extension of services to families who lose children to the disease. A copy of S.J. Res. 206 is included as Appendix 1.

It has been 19 months since the passage of S.J. Res. 206. And the Committee is disappointed and not satisfied with the magnitude and the scope of the SIDS program administered by DHEW. In its testimony before the Committee the Administration testified that it has only 11 research grants and contracts for studies specifically concerned with SIDS. These grants and contracts amount to $603,575. Furthermore, the Administration's testimony makes clear that HEW makes virtually no effort in respect to counseling information, public education and statistical effort respecting SIDS, which is most unfortunate given the clear intent of the Committee and the Senate as expressed in S.J. Res. 206 regarding the need for an increased effort in these areas.

The Committee, therefore, rejects the Administration position on S. 1745, which states, "The authority proposed by S. 1745 for support of research in SIDS duplicates the broad and flexible authorities that are already available under the PHS Act. Under existing authority the NICHD and other DHEW programs are aggressively moving toward the goal of understanding the causes of SIDS and dealing with the problems it presents. As outlined above, we have identified the critical factors hindering our understanding of the problem and have made much progress in removing these obstacles. Additional authorities, such as those proposed in S. 1745 would provide no advantages to the effective activities already under way within the Department. Accordingly, we recommend against enactment of S. 1745."

VI. TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1949, as amended, the following is a tabulation of votes in Committee:

There were no rollcall votes cast in the Committee. The motion to favorably report the bill to the Senate carried unanimously by voice vote.

VII. COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510, 91st Congress) the Committee estimates that the cost which would be incurred in carrying out this bill is as follows:

[In thousands]

	1974	1975	1976	Total
Biomedical research	7,000	8,000	9,000	24,000
Counseling, education, and statistical programs	3,000	4,000	5,000	12,000
Total	10,000	12,000	14,000	36,000

VIII. SECTION-BY-SECTION ANALYSIS

Section 1—Short title

Designates the title of this Act as the "Sudden Infant Death Syndrome Act of 1973."

Section 2—Statement of purpose

Cites the purpose of the Act as follows: (1) to provide financial assistance for research into the causes and prevention of sudden infant death syndrome, and (2) to provide information and counseling services to families and personnel involved with sudden infant death syndrome.

Section 3—Authorization of appropriations

This section describes technical amendments to Section 441 of the Public Health Service Act (42 U.S.C. 201) including the addition of the following subsection:

Section 441(b)(1). Designates the Secretary of the Department of Health, Education and Welfare through the National Institute of Child Health and Human Development to carry out research programs on sudden infant death syndrome.

(2) Authorizes appropriations under this subsection amounting to: $7 million for fiscal year 1974; $8 million for fiscal year 1975; and $9 million for fiscal year 1976.

Section 4—Amendment to Public Health Service Act

This section cites two amendments to title XI of the Public Health Service Act:

(1) amends title XI by adding the words, "and Perinatal Biology and Infant Mortality," to the title.

(2) amends title XI by adding at the end thereof the following new part:

PART C—SUDDEN INFANT DEATH SYNDROME

Sudden Infant Syndrome Counseling, Information, Educational, and Statistical Programs.

Section 1121. (a)(1) Authorizes the Secretary of the Department of Health, Education and Welfare to make grants to public and non-profit entities through the Assistant Secretary for Health and Scientific Affairs to establish regional centers for counseling, information, educational, and statistical programs on sudden infant death syndrome.

(2) Authorize the Secretary of the Department of Health, Education and Welfare through the Assistant Secretary for Health and Scientific Affairs to establish an information and educational program on sudden infant death syndrome including the development of public and professional educational materials relating to the syndrome and the dissemination of such materials to the involved persons. This program may be carried out through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

(b) Authorizes appropriations under this section amounting to: $3 million for fiscal year 1974; $4 million for fiscal year 1975; and $5 million for fiscal year 1976.

Application; administration of grant and contract program

Section 1122. Requires applicants for grants under this title to:

(1) Insure that programs for which assistance is sought will be administered by or under the supervision of the applicant.

(2) Provide for appropriate community representation in the development and operation of programs under this title.

(3) Establish procedures to control and account for all Federal funds paid to applicants under this title.

(4) Provide for making such reports as the Secretary may reasonably require.

Reports

Section 1123. (a) Directs the Secretary of the Department of Health, Education and Welfare to submit comprehensive reports each year to the President for transmittal to the Congress on the administration of this title.

(b) Authorizes the Secretary to recommend additional legislation regarding this title as he deems necessary.

Section 5—Health Survey and Studies

This section amends Section 305(b) of the Public Health Service Act by the insertion at the end of that section the following phrase, "specifically including statistics relating to sudden infant death syndrome."

IX. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no changes is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * *

THE NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 305. (a) The Surgeon General is authorized, (1) to make, by sampling or other appropriate means, surveys and special studies of the population of the United States to determine the extent of illness and disability and related information such as: (A) the number, age, sex, ability to work or engage in other activities, and occupation or activities of persons afflicted with chronic or other disease or injury or handicapping condition; (B) the type of disease or injury or handicapping condition of each person so afflicted; (C) the length of time that each such person has been prevented from carrying on his occupation or activities; (D) the amounts and types of services received for or because of such conditions; (E) the economic and other impacts of such conditions;

(F) health care resources; (G) environmental and social health hazards; and (H) family formation, growth, and dissolution; and (2) in connection therewith, to develop and test new or improved methods for obtaining current data on illness and disability and related information. No information obtained in accordance with this paragraph may be used for any purpose other than the statistical purposes for which it was supplied except pursuant to regulations of the Secretary; nor may any such information be published if the particular establishment or person supplying it is identifiable except with the consent of such establishment or person.

(b) The Secretary is authorized, directly or by contract, to undertake research, development, demonstration, and evaluation, relating to the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels *specifically including statistics relating to sudden infant death syndrome.*

* * * * *

PART E—INSTITUTES OF CHILD HEALTH AND HUMAN DEVELOPMENT AND OF GENERAL MEDICAL SCIENCES

ESTABLISHMENT OF INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

SEC. 441. (*a*) The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training relating to maternal health, child health, and human development, including research and training in the special health problems and requirements of mothers and children and in the basic sciences relating to the process of human growth and development, including prenatal development.

(b)(1) The Secretary, through the National Institute of Child Health and Human Development, shall carry out research programs specifically relating to sudden infant death syndrome.

(2) There are authorized to be appropriated to carry out the purposes of this subsection $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976.

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TITLE -I—GENETIC BLOOD DISORDERS—*AND PRENATAL BIOLOGY AND INFANT MORTALITY*

* * * * *

PART B—COOLEY'S ANEMIA PROGRAMS

COOLEY'S ANEMIA SCREENING, TREATMENT, AND COUNSELING, RESEARCH, AND INFORMATION AND EDUCATION PROGRAMS

SEC. 1111. (a)(1) The Secretary may make grants to public and nonprofit entities, and may enter into contracts with public and private entities, for projects for the establishment and operation, primarily through other existing health programs, of Cooley's anemia screening, treatment, and counseling programs.

(2) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Cooley's anemia, including projects for the development of effective and inexpensive tests which will identify those who have the disease or carry the trait.

(3) The Secretary shall carry out a program to develop information and educational materials relating to Cooley's anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

(b)(1) For the purpose of making payments pursuant to grants and contracts under subsection (a)(1), there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

(2) For the purpose of making payments pursuant to grants and contracts under subsection (a)(2), there are authorized to be appropriated $1,700,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

(3) For the purpose of carrying out subsection (a)(3), there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

VOLUNTARY PARTICIPATION

SEC. 1112. The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

SEC. 1113. (a) A grant under this part may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each application shall—

(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released, or (B) statistical data compiled without reference to the identity of any such patient;

(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this part;

(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(5) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

(b)(1) In making any grant or contract under this title, the Secretary shall (A) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (B) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

(2) The Secretary may make a grant under section 1111(a)(1) or a screening, treatment, and counseling program when he determines that the screening provided by such program will be done through an effective and inexpensive Cooley's anemia screening test.

PUBLIC HEALTH SERVICE FACILITIES

SEC. 1114. The Secretary shall establish a program within the Public Health Service to provide for voluntary Cooley's anemia screening, counseling, and treatment. Such program shall utilize effective and inexpensive Cooley's anemia screening tests, shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

REPORTS

SEC. 1115. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.

Part C—Sudden Infant Death Syndrome

Sudden infant death syndrome counseling, information, educational, and statistical programs

Sec. 1121. (a)(1) The Secretary through the Assistant Secretary for Health and Scientific Affairs may make grants to public and nonprofit private entities, for the establishment of regional centers for sudden infant death syndrome counseling, information, educational, and statistical programs.

(2) The Secretary through the Assistant Secretary for Health and Scientific Affairs shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, public safety officials, and to the public generally. The Secretaary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1974, $4,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for the fiscal year ending June 30, 1976.

Application; Administration of grant and contract programs

Sec. 1122. A grant under this part may be made under application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

(1) provide that the program and activities for which assistance under this part is sought, will be administered by or under supervision of the applicant;

(2) provide for appropriate community representation (with special consideration given to groups previously involved with sudden infant death syndrome) and the development and operation of any program funded by a grant under this part;

(3) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(4) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

Reports

Sec. 1123. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress within one year after the date of enactment of this Act and annually thereafter a comprehensive report on the administration of this Act with regard to Sudden Infant Death Syndrome.

(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.

X. APPENDIX I

[S.J. Res. 206, 92d Cong., 2d sess.]

Calendar No. 796

[Report No. 92-830]

Joint resolution relating to sudden infant death syndrome

Whereas sudden infant death syndrome kills more infants between the age of one

month and one year than any other disease; and

Whereas the cause and prevention of sudden infant death syndrome are unknown; and

Whereas there is a lack of adequate knowledge about the disease and its effects among the public and professionals who come into contact with it: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this joint resolution to assure that the maximum resources and effort be concentrated on medical research into sudden infant death syndrome and on the extension of services to families who lose children to the disease.

SEC. 2. The National Institute of Child Health and Human Development, of the Department of Health, Education, and Welfare, is hereby directed to designate the search for a cause and prevention of sudden infant death syndrome as one of the [top] *highest* priorities in intramural research efforts and in the awarding of research and research training grants and fellowships; and to encourage researchers to submit proposals for investigations of sudden infant death syndrome.

SEC. 3. The Secretary of Health, Education, and Welfare is directed to develop, publish, and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers, and similar personnel and parents, future parents, and families whose children die, to the nature of sudden infant death syndrome and to the needs of families affected by it.

SEC. 4. The Secretary of Health, Education, and Welfare is further directed to work toward the institution of statistical reporting procedures that will provide a reliable index to the incidence and distribution of sudden infant death syndrome cases throughout the Nation; to work toward the availability of autopsies of children who apparently die of sudden death syndrome and for prompt release of the results to their parents; and to add sudden infant death syndrome to the International Classification of Disease.

Mr. MONDALE. The bill approved by the Senate authorized the Secretary of HEW, through the Assistant Secretary for Health and Scientific Affairs, to establish regional centers for counseling, information, educational and statistical programs on SIDS. Authorizations for this program in the Senate bill were $3 million for fiscal 1974; $4 million for 1975; and $5 million for 1976. The House version authorized $2 million each for the 3 years.

The bill before us today provides authorizations of $2 million for 1974; $3 million for 1975 and $4 million for 1976. It also includes language from the House bill specifying more clearly the purposes for which grants and contracts awarded under the program can be used. These activities are "the collection, analysis and furnishing of information—derived from post mortem examinations and other means—relating to the causes of sudden infant death syndrome; and "the provision of information and counseling to families affected by sudden infant death syndrome."

Language concerning the creation of regional centers for these activities has been deleted to provide for maximum flexibility in grant programs. It is our intention not to preclude the creation of regional centers, but to make it possible for a variety of approaches to counseling, education, information and statistical activities to be tried. In many cases, commonsense might suggest that creation of a regional center would be the most economical and efficient way of dealing with these concerns; as well as for coordinating research efforts.

The other major section of this bill deals with research. The Senate bill provided for a SIDS research program to be carried out through the National Institute of Child Health and Human Development. Authorizations were $7 million for fiscal 1974; $8 million for 1975; and $9 million for 1976. The bill passed by the House contained no research authorization.

We have adopted the following compromise language:

The Secretary, through the National Institute of Child Health and Human Development, shall carry out research programs specifically relating to sudden infant death syndrome.

In addition, the bill before us requires a detailed annual report to Congress on the extent of the research conducted each year and on the number and amount of research and grant contract applications which have not been funded. In the Senate Labor and Public Welfare Committee, we have had a continuing debate with NICHD about what constitutes research on SIDS. Our contention is that the scope and seriousness of this disease require a focused, concentrated research effort. However, close examination of past research efforts showed us that most funds attributed to "SIDS" research were not specifically targeted on that disease, but on broader categories. For example, in fiscal 1973, NICHD reported an expenditure of $4.1 million on SIDS research but only $603,575 of that could be characterized as "primary" SIDS research.

The purpose of the research section of this bill is to encourage NICHD to significantly expand and focus its research program.

In closing, I would like to express my deep gratitude to Senator KENNEDY, chairman of the Health Subcommittee; and to Representative PAUL ROGERS, chairman of the House Subcommittee on Public Health and Environment, for their invaluable assistance in moving this legislation through the Congress.

I request unanimous consent that a copy of S. 1745, as passed by the Senate, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1745

A Bill to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sudden Infant Death Syndrome Act of 1973".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide financial assistance to identify the causes and preventive measures needed to eliminate sudden infant death syndrome, to provide information and counseling services to families affected by sudden infant death syndrome and to personnel engaged in research for the prevention of sudden infant deaths.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 441 of the Public Health Service Act (42 U.S.C. 201) is amended by inserting the subsection designation "(a)" immediately before the first sentence and by adding at the end thereof the following new subsection:

"(b)(1) The Secretary, through the National Institute of Child Health and Human Development, shall carry out research programs specifically relating to sudden infant death syndrome.

"(2) There are authorized to be appropriated to carry out the purposes of this subsection $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976.".

AMENDMENT TO TITLE XI OF THE PUBLIC HEALTH SERVICE ACT

SEC. 4. (a) The title of title XI is amended by adding thereto the words "AND PERINATAL BIOLOGY AND INFANT MORTALITY".

(b) Title XI of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART C—SUDDEN INFANT DEATH SYNDROME

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS

"SEC. 1121. (a)(1) The Secretary through the Assistant Secretary for Health and Scientific Affairs may make grants to public and nonprofit private entities, for the establishment of regional centers for sudden infant death syndrome counseling, information, educational, and statistical programs.

"(2) The Secretary through the Assistant Secretary for Health and Scientific Affairs shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, public safety officials, and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1974, $4,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for the fiscal year ending June 30, 1976.

"APPLICATION; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1122. A grant under this part may be made under application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the program and activities for which assistance under this part is sought will be administered by or under supervision of the applicant;

"(2) provide for appropriate community representation (with special consideration given to groups previously involved with sudden infant death syndrome) and the development and operation of any program funded by a grant under this part;

"(3) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(4) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"REPORTS

"SEC. 1123. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress within one year after the date of enactment of this Act and annually thereafter a comprehensive report on the administration of this Act with regard to sudden infant death syndrome.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.".

HEALTH SURVEY AND STUDIES

SEC. 5. Section 305(b) of the Public Health Service Act is amended by inserting immediately before the period at the end thereof the following: "specifically including statistics relating to sudden infant death syndrome".

Mr. JAVITS. Mr. President, I urge my colleagues to support the proposed substitute for the House amendment to S. 1745—Sudden Infant Death Syndrome Act of 1974—which I believe that the House will accept.

This measure will allow us to begin to establish an appropriate national commitment to adequately fund appropriate biomedical research and develop appropriate information and counseling services to respond humanely to families who lose children to SIDS.

The scope of the problem of "crib death," as the sudden infant death syndrome is often called, is the unexpected demise of an infant not known to have had a serious disease and whose death remains unexplained after complete autopsy. Based upon findings from several epidemiologic studies, both in the United States and abroad, it appears that the mortality rate from SIDS is about 3 per 1,000 live births. In this country, we estimate that some 7,000 to 10,000 infants die each year as a result of this syndrome, which is the leading cause of death in infancy—up to 1 year—after the first month of life. In the majority of cases, the baby is apparently in good health and feeds without difficulty. While there may be evidence of a slight cold or stuffy nose, there is usually no history of a serious upper respiratory infection. Often, the infant is placed in his or her crib for a nap or for the night, and several hours later is found dead.

This bill authorizes a total of $9 million over 3 years to establish the necessary public and professional informational and educational programs and requires the Secretary to report to Congress on the research being carried out and the need for additional research funding as it relates specifically to sudden infant death syndrome.

I urge my colleagues to support this bill so that we may move aggressively toward the goal of understanding the causes of SIDS and dealing with the resulting problems of this tragic disease.

The PRESIDING OFFICER. The question is on the motion of the Senator from Massachusetts (Mr. KENNEDY) to concur in the House amendment with an amendment in the nature of a substitute.

The motion was agreed to.

ENERGY EMERGENCY ACT—VETO

The Senate continued with the reconsideration of the bill (S. 2589), the Energy Emergency Act.

Mr. JACKSON. Mr. President, I wonder if the time could be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. FANNIN. I have no objection.

The PRESIDING OFFICER. Without objection, the time will be equally divided.

Mr. JACKSON. Mr. President, I will proceed now with an opening statement and then yield to my colleague, if that is all right.

The PRESIDING OFFICER. The Senator may proceed.

Mr. JACKSON. Mr. President, the President's veto of the Energy Emergency Act is a flagrant show of contempt for the impact of fuel shortages and soaring fuel prices on the American people.

The President's veto message contains nothing new.

He defends and advocates higher oil prices.

He opposes unemployment compensation for the thousands of Americans who have lost their jobs.

He opposes low-interest loans to homeowners and to small businesses.

He ignores the fact that the energy emergency bill contains every reasonable authority to deal with the shortage that the administration has requested, and much essential authority which was not requested.

Over a period of 4 months, the Congress has worked diligently to provide the executive branch with adequate authority to manage energy shortages and control soaring fuel prices.

Congress has acted on its own initiative from the outset. While the executive branch agreed in principle with the need for such action, it has never submitted specific legislation and provided little, if any, serious assistance to the Congress in developing an effective Energy Emergency Act.

Earlier this year, the Energy Emergency Act passed both the House and Senate by overwhelming majorities. As it was sent to the President, the act gave him essential authority to promulgate energy conservation plans, institute rationing if necessary, convert powerplants to coal and thereby conserve petroleum supplies, and provide additional unemployment assistance benefits to those unemployed because of the energy shortage.

But what the administration could not stand, above all, in the Emergency Act, was the congressional determination that crude oil and petroleum prices be held at reasonable levels.

The President asserts that the price rollback in the Energy Emergency Act would "result in reduced energy supplies," that "the oil industry would be unable to sustain its present production."

That assertion is preposterous. In February 1973, the domestic oil industry was producing 9.4 million barrels of crude oil per day at an average price of $3.40. In February 1974, it produced 9.2 million barrels a day at an average price of $6.95. So it is obvious that production was 200,000 barrels a day less than a year ago.

Mr. President, crude oil prices have doubled, and crude oil production has not increased one whit. It is down.

Let us look at the largest exempt category of crude oil. In February 1973, production from stripper wells in the United States was 1.17 million barrels per day, at an average price of $3.40. In February 1974, stripper well production was 1.15 million barrels, at an average price of $10.35. Prices have nearly tripled, and production is no higher than it was 1 year ago.

Mr. President, the price rollback provision of the Energy Emergency Act is very moderate. Many Members feel that even $5.25 per barrel is not justified—either by increased costs or by the need for incentives. But the Congress has been exceedingly cautious in this legislation, lest there by any chance that a price rollback might reduce future production. We have provided a general price ceiling 54 percent higher than the average price of 1 year ago, and have permitted the administration to increase this ceiling for reasonable categories of production—like stripper wells—to an average of $7.09—more than twice the price of 1 year ago.

Mr. President, the failure to override this veto will cost the American consumer—and I think of all those propane users in particular—$20 million per day, $600 million per month, and $7.3 billion this year. These excess prices are not an incentive to increase exploration and development, which are today at the highest levels we can reasonably expect, given the acreage under lease, the supply of drilling rigs, materials, and skilled personnel. These excess prices are pure windfalls; they are both a stimulus to cost inflation and a drag on the economy. With inflation raging at record rates and the Nation on the brink of a recession, this veto is the height of economic irresponsibility.

Mr. President, I reserve the remainder of my time.

Mr. FANNIN. Mr. President, we have reached the final round on the Energy Emergency Act after struggling with this bill for more than 4 months.

Many of us have spoken at length on the infirmities of this legislation, particularly the price rollback provision. It is regrettable that the chairman of the Interior Committee insisted that this section remain in the bill.

Basic economics dictates that the supply of energy is significantly elastic to price. Higher prices stimulate greater production efforts, and consequently increased supply. FPC regulation of natural gas prices—which resulted in artificially inflated demand and depressed the supply of natural gas—is a good example of what can be expected from Government control of petroleum prices. In light of current shortages, how can Senators responsibly support a measure which will almost certainly inhibit development of energy supply?

By the same token, how can Senators support a measure which undoubtedly will result in higher prices to the consumer over the long run? Let me assure you that every barrel of domestic oil that the industry cannot afford to produce at $5.25 or even $7.09 or $9 or $10 a barrel will be imported—and we are all too familiar with the stratospheric prices of foreign oil today. Consumers will end up

paying more, not less, for fuel. Our balance of payments will deteriorate rapidly.

If we reject this bill and let our domestic oil industry work, it will be in the interest of the consumer and our international economic position. It will mean more jobs and more tax revenue.

To avoid short-term windfalls, it would be wise to adopt proposals of the type recently proposed by the administration. This should include a provision for crediting against the tax the reinvestment of additional revenues in domestic energy producing projects. A measure such as that would not only avoid excess profits, but also encourage development of increased supplies.

On the other hand, rolling back prices as provided for in the Energy Emergency Act will lead to longer lines at the gasoline pumps. Consumer prices will rise as the higher cost of importing petroleum to replace the domestic production lost due to reduced prices is passed through to the consumer. It is the independent producer, rather than the major oil companies, who will suffer because marginal wells are the ones most vulnerable to the effects of lower prices. Our economy will experience an unnecessary drain of billions of dollars annually for foreign oil. How can Senators responsibly support a measure which will produce such potentially disastrous results?

Mr. President, when we took that rollback proposal up at the beginning of this session there were hearings which were called hastily and which were held in an atmosphere of near hysteria. When this bill came to the floor, the Senate did not have the facts necessary to deal with this provision. During debate on the bill, the distinguished chairman of the Senate Committee on Interior and Insular Affairs made a great number of claims as to what the rollback provision would do. It is my belief that the chairman's arguments were not and are not based on facts. I think he was receiving information that was not factual. I would like to go over some of the points of the previous debate, recalling what Senator JACKSON said.

Senator JACKSON said:

> The unregulated and artificially high price of domestic crude oil is counter-productive. It is retarding exploration for and development of new oil discoveries. Instead of encouraging the development of new wildcat acreage, the present price structure does the opposite. It encourages the drilling of new wells on old reservoirs that are already in production.

That is absolutely wrong.

The facts are that higher prices are stimulating production. New oil is either production from wells drilled since 1972, or incremental production—over and above—the level of product in the comparable month of 1972—the base year. If a new well were drilled next to an old well, production from the old well would decline and offset the credit for the new production, unless the total amount produced from the lease increased over the level of 1972. Only the cumulative increase counts as "new" oil, and that is the whole idea—to increase total U.S. crude oil production. To qualify as a totally "new" well, it must be in another lease, not just next to an old well.

Senator JACKSON said that—

> Respected oil analysts . . . say that these (current) price levels will not buy increased supply.

The facts are that, due to existing prices, the U.S. petroleum industry plans to invest over $19½ billion in 1974—$19,531,000,000—of which $12,134,000,000 is for exploration and production of petroleum. Funds budgeted for drilling and exploration—$7,669,000,000—represent a 16-percent increase over 1973. These investments would not be made unless the industry expected to be able to increase supply. A price rollback would result in investment cutbacks and thereby decreases in production.

Senator JACKSON said that—

> Doubling of prices has failed to elicit any new supply.

The facts are that Senator JACKSON went on to admit that a small increase—34,000 barrels per day—had taken place. What he failed to admit is that for several years the trend of crude oil production has been downward. What these higher prices have done is to stem that downtrend and turn the corner toward increased production.

That is what we are talking about. That is what we want.

In addition, the $1 extra incentive was only granted in December 1973, and has had little time to have an impact yet. There is some timelag between increased recovery efforts and the oil reaching markets. It is also true that congressional threats of a price rollback have served to scare off investors and make expensive well workovers more risky. The investment climate is very uncertain, and few operators or drillers are willing to gamble that oil which is economically producible at $8 per barrel, might end up in the "red" because of a price cut.

Senator JACKSON said:

> . . . these artificial cartel price levels serve no economic purpose. They are, in fact, counter-productive. They reduce longer term supply. They compel cynical and foolish distortions in the allocation of capital, machinery, and labor.

The facts are that Senator JACKSON in his own hearings in January admitted that he could find no evidence of collusion or price fixing. There are over 6,000 independent crude oil producers in 39 States. The 16 largest U.S. producers accounted only for two-thirds of 1972 production, considerably less concentrated than autos, or steel, for example. As for allocations of capital, material, and labor, it is these things which are needed to increase domestic production. If producers get higher prices, they can bid labor, materials, and capital away from other sectors of the economy, to ease the shortages of these things which Senator JACKSON charged earlier were the cause of the shortage. In fact, it is just this "economic purpose" which higher prices serve.

I am not talking about the higher prices of the end product at the service stations. In fact, we are talking about lower prices there.

Senator JACKSON said:

> This administration is still committed to the nineteenth century notion that the way to deal with the energy shortage is to limit demand by raising consumer prices.

The facts are that this country's economic strength is based upon a recognition that the profit motive is what makes the marketplace work. Higher crude prices stimulate greater production as well as tend to curb demand. Lower prices or rationing will not stimulate supply, and will encourage waste of energy. In addition, gasoline is only a portion of the cost of operating an automobile. For example, a car which gets 15 miles per gallon, and uses gasoline which costs 50 cents a gallon, has a cost per mile of gasoline of 3.33 cents per mile. Many studies done by the Department of Transportation suggest that the total cost of operating a car are in the range of 10 cents per mile to 15 cents per mile, including gasoline. Thus a 1-cent-per-gallon change in price of gasoline has almost no effect on the total cost per mile of operating a motor vehicle.

Senator JACKSON said:

> The real constraint on supply today is not price. . . . The constraints today are shortages: . . . manpower, tubular goods, drilling rigs. . . .

The facts are that higher selling prices for crude enable oil producers to "bid" steel, manpower, and other materials away from other sectors of the economy. This price mechanism is the most efficient allocator of resources of any kind.

On February 26, 1974 the Cost of Living Council removed oil field machinery from price controls, which should permit higher prices for such equipment. The result is that manufacturers of such equipment can now make a profit on the manufacture of that equipment, which should help ease the material shortages Senator JACKSON alluded to.

On the need to tighten price loopholes, Senator JACKSON said:

> . . . Loopholes enable the unscrupulous to take advantage to double the value of their "old" oil—their presently producing fields—by simply drilling and pumping the oil through new wells.

The facts are that this is not true. "New" production must be from a new or different lease, not only from a new well, unless the total production from the lease is greater than the rate of production in 1972, month for month. Only the excess of current production over the base period is "new" oil, from any given lease. Furthermore, excess or incremental production credits not used in any given lease may not be credited to another lease. The incentive to produce new crude is not a loophole. Before any benefit can be derived, new oil must in fact be produced.

Senator JACKSON said:

> Pursuit of this loophole enriches owners of producing fields. It does not produce more oil.

The facts are that if no more oil is produced that during the base year, it is still price-controlled at a ceiling of $1.35 above the posted price on May 15, 1973, so no "enrichment" can occur. The production of additional oil proves the allegation to be false.

Senator JACKSON said that the administration has exempted—

. . . Three major categories of crude from price controls.

The facts are that at least 70 percent of domestic crude is still under price controls. Stripper wells account for about 12 percent of domestic crude and were exempted by an act of Congress. New and released crude account for about 7 percent each, so that the total for that which is not under price controls is about 26 percent.

Concerning the cost to consumers, Senator JACKSON said that—

An increase of 34,000 barrels per day . . . is what the American consumer is getting in the way of new supply at a cost of $20 million a day.

The facts are that about 30 percent of total production is free of price controls. If it all were selling at $10.35 per barrel, which it is not, and were rolled back to $5.25 per barrel, or cut $5.10, the so-called saving would be $16.6 million. This might reduce pump prices by 1 cent per gallon, but would have considerable negative impact on future supply expectations. The American consumer already spends over $140 million every day on gasoline alone, of which State and Federal taxes amount to over $33 million per day.

Regarding stripper well production, Senator RANDOLPH said:

. . . In the State of West Virginia, when we talk about the maximum for stripper production it would come to approximately $8 a barrel rather than $7.09 that is frequently referred to (by Senator Jackson) . . . There is flexibility in this provision, section 110, to deal with the special situation regarding stripper wells and secondary and tertiary recovery . . .

Senator JACKSON said:

The Senator (Mr. Randolph) is correct.

The facts are that the price of stripper well crude under S. 2589 would be limited to $5.25 per barrel unless raised to $7.09, except for Pennsylvania grade crude such as is produced in West Virginia. Thus, the "flexibility" referred to by Senator RANDOLPH and agreed to by Senator JACKSON is limited to Pennsylvania grade crude production. In November of 1973 Pennsylvania grade production was only 36,200 barrels a day, as contrasted to the total of 9,144,000 barrels a day produced within the United States. The crude to which the "flexibility" in price was referred to by Senator RANDOLPH applies to only .04 percent of total national production. Thus, for all practical purposes the price ceiling on U.S. crude production established by S. 2589 would be $5.25 per barrel with a possible upward adjustment to $7.09—not $8 per barrel as otherwise alleged.

Concerning propane, Senator JACKSON said:

I had the words "including propane" added to the provision so as to remove any question about having it covered. Specifically, we estimate a rollback of about 50 percent in the price of propane if this conference report is adopted. Where the average national price is now about 42 cents, it would go back to about 22 cents.

The facts are that Secretary William Simon stated that:

Section 110 of the Conference Report . . . which calls for a rollback of crude prices to $5.25 per barrel with a ceiling of $7.09 per barrel would have little impact if any in further reducing the price of propane. We feel the action we have already taken should be sufficient to protect American consumers who are dependent upon propane.

The House has now acted on propane prices, but I did want the Senate to realize that only about one-third or less of the total amount of propane comes from crude oil.

What Senator JACKSON failed to state is that 68 percent of the propane produced in the United States comes from natural gas wells, all of which are not covered by S. 2589. The act accordingly applies to only 32 percent of U.S. propane supplies. Most of this 32 percent is used as refinery fuel and therefore never reaches the consumer. Thus, if crude prices were set at $7.09 per barrel the decrease in propane prices would be only a fraction of a cent, not 20 cents.

Mr. President, I cannot believe that if the Senate knew and understood all the facts last February 19 this body would have voted for the rollback in the first place. Now we have a chance to undo this damaging legislation.

The price rollback is not the only provision of this bill which would exacerbate the fuel shortage rather than relieve it. Mr. Simon—who would administer this legislation should it be enacted—has termed "unworkable" both the employment assistance provision and the section creating a Federal Energy Administration. The provision for low-interest loans to small businesses and homeowners has been predicted to cost the Government up to $75 billion while yielding proportionally small energy savings.

As Mr. Simon pointed out before the Senate approved the conference report on February 19th, this legislation contains very few needed authorities. It imposes costly requirements that hinder rather than help Government efforts to deal effectively with the energy shortages. Every important provision is addressed in separate and more reasonable legislation already in the congressional process.

Mr. Simon has made it clear that in order to deal successfully with the shortages we face today, he must have greater flexibility than is provided in this legislation. The provisions of this bill—particularly the price rollback—are dangerous enough to necessitate a Presidential veto. Senators voting to override that veto will help to guarantee for their constituents and for all other Americans, continued shortages, higher prices, and unemployment. I urge my colleagues to consider carefully the long range implications of their vote on this legislation.

Mr. President, there are other problems in the bill that I will not cover at this time. I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HELMS). Who yields time?

Mr. JACKSON. Mr. President, I yield such time as he may desire to the distinguished Senator from Colorado (Mr. HASKELL).

Mr. HASKELL. Mr. President, I thank the distinguished Senator from Washington for yielding to me.

Mr. President, on November 8, 1973, the President of the United States addressed the Nation on the effect of the energy crisis. At that time he announced that he would request the Congress to act to give him the necessary emergency authority so that the effects of the crisis could be softened wherever possible.

Due to the foresightedness of the chairman of the Interior Committee (Mr. JACKSON), legislation which would give the President the authority he requested had been introduced 3 weeks before—October 18, 1973.

The Congress has been struggling with the energy emergency situation for some 4 months now trying to work out an equitable solution which would meet the needs of the country in these difficult times.

As my colleagues know, we finally worked out a compromise which was satisfactory to more than two-thirds of the Members of Congress and sent it to the President for his approval.

He has now sent that bill back to us saying—

. . . the Congress has succeeded only in producing legislation which solves none of the problems, threatens to undo the progress we have already made, and creates a host of new problems.

He went on further to accuse—

Unfortunately, there are some who have chosen to capitalize on the Nation's energy problems in an effort to obtain purely political benefits. Regrettably, the few who are so motivated have managed to produce the delays, confusion, and finally the tangled and ineffective result which is before me today.

Mr. President I resent both of those statements. As a member of the Committee on Interior and Insular Affairs I personally have labored hard and long over this piece of legislation. My colleagues who were conferees have spent countless hours and often worked far into the night to try to work out an equitable compromise we could all live with. Now the President of the United States is calling this compromise politically motivated to obtain purely political benefits. That statement could not be further from the truth.

Let us examine his first accusation—that this legislation solves none of the problems and, in fact, creates new ones.

A simple look at the table of contents of the bill disproves that statement. Title I provides authority to establish the Federal Energy Emergency Administration; to implement rationing of gasoline if necessary; to establish new energy conservation measures; to provide for conversion to coal facilities where necessary; to allocate scarce materials—just to name a few. Title II sets up the necessary machinery to suspend certain provisions of the Clear Air Act if necessary to meet the needs of the Nation in the crisis situation. Title III requires the various Federal agencies and departments affected by the legislation to report back to us on problems they have with the actions required by the legislation.

I cannot see how one can possibly jus-

tify that this legislation "solves none of the problems" facing the Nation in this period of energy shortages.

The second accusation made against the bill is that our motivation for passing it has been "purely political" and that those who are so motivated "have managed to produce the delays, confusion, and finally the tangled and ineffective result which is before me—the President—today."

Once again the case as stated is inaccurate. The administration has to be the single most important factor in contributing to the delay of enacting the legislation. Had the administration spokesmen been more willing to work with us in a spirit of compromise, had they been able to agree among themselves about the key provisions of the legislation, and had they not urged their friends on the Hill to work to kill the bill we would have been able to act months ago.

Lest I be accused of being inaccurate in my assertion let me cite one example of the inability of the administration spokesmen to agree or to have a solution.

The Senate Interior Committee members joined with the conferees on the Energy Emergency Act in holding hearings on price rollback legislation.

Two representatives from the Federal Energy Office appeared before us. The Assistant Secretary of Treasury for Economy Policy, Mr. Fiedler, appeared, along with Mr. Gerald Parsky, Executive Assistant to the Administrator of the Federal Energy Office.

I asked Mr. Fiedler:

How far would you roll back the present price that I gather today is $10.25 on new oil?

He replied:

My concern is primarily with the price of all oil because this is a function of conservation that depends on the price consumers are paying and they are paying a price of imported and domestic, not only new, but the old as well and stripper.

I don't have a specific number in mind, but I think that the $5.25 price that Senator Jackson mentioned earlier, rolling all oil prices back to that level, would be disastrous.

I then asked Mr. Fiedler:

Sen. HASKELL. To what level?

Mr. Fiedler replied:

To the $5.25 Senator Jackson mentioned earlier.

I then asked Mr. Fiedler:

Do you have any opinion at all as to where it should be rolled back to?

Mr. Fiedler replied:

Not any specific number.

I interpret that as an indication that Mr. Fiedler—one of those responsible for determining the Administration's policy with respect to oil prices—has no opinion whatsoever as to what those oil prices should be.

Let me contrast his statement of no opinion with the statement made by Mr. Parsky:

Mr. PARSKY. "We would agree that the average price of $9.50 or so is too much too fast, no question about that. We are now in the process of studying the pricing situation and trying to carefully assess the economics of secondary and tertiary recovery as well as the economics of operating stripper wells in order to come up with an accurate level that can continue to increase supply."

Later on in the same hearing he stated:

The intention at this point would be, or at least all indication that we have are the $5.25 on old oil is sufficient.

I cannot stress too strongly that the Administration's designated spokesmen, in an appearance before the Interior and Insular Affairs Committee, testified that a price of $5.25 on old oil—the price contained in the Conference Report—is sufficient.

Now the bill has been sent back to us with a complaint that—

The price roll back provision . . . would set domestic crude oil prices at such low levels that the oil industry would be unable to sustain its present production of petroleum products, including gasoline.

Section 110 of the conference report version of the legislation provides for an average ceiling price of $5.25 per barrel on crude oil supplies. The President is empowered to recommend to the Congress that where necessary crude oil prices be raised to an average price of $7.09 per barrel.

It is clearly the intent of the Congress that there would be a two-tiered pricing system. I discussed this very matter with the distinguished chairman of the Interior Committee during debate on adoption of the conference report. I believe in the necessity of encouraging new oil supplies. I would support a two-tier pricing system if recommended by the President. But the ceiling price of $7.09 per barrel is sufficient to insure those new supplies. A study by the National Petroleum Council on oil and gas availability, prepared in December 1973, indicated that for maximum attainable self-sufficiency by 1980 the average revenue per barrel of crude would have to be $3.65 per barrel assuming a 15-percent rate of return or $4.32 per barrel assuming a 20-percent rate of return in 1975. Those prices increase to $6.69 per barrel and $7.87 per barrel respectively by 1985.

As the Petroleum Independent put it in November 1973:

There's no doubt that prospects are for increased drilling. Everybody I know is planning on it. With new oil prices from $5.30 to $6.00 per barrel, there's incentive now to go looking for oil.

Either the President of the United States has been misinformed about the true situation with respect to oil prices, or he is deliberately misleading the American people.

It is simply impossible to substantiate his statement that:

The Energy Emergency Act would set domestic crude oil prices at such low levels that the oil industry would be unable to sustain its present production of petroleum products.

Once again I intend to vote in favor of S. 2589, the Energy Emergency Act. It is sound legislation. It is necessary legislation. We simply cannot afford to bow to those who want to let oil prices skyrocket for the benefit of the oil industry and to the lasting detriment of the American consumer.

I thank the Senator from Washington.

Mr. JACKSON. Mr. President, I commend the distinguished Senator from Colorado for an excellent statement. I think he has analyzed the problem from every angle, especially as it pertains to the economics of the industry.

I would point out to Senators that he has been conducting an in-depth study of the industry, both from the standpoint of its structural implications and the standpoint of its impact on the marketplace and on our economy as a whole. I commend him for the ongoing effort he is making. His statement here today obviously reflects that in-depth study, which he has had underway now for several months.

Mr. HASKELL. I thank the distinguished Senator.

Mr. McCLURE. Mr. President, will the Senator from Colorado yield for a question?

Mr. HASKELL. The Senator from Washington has the floor.

Mr. JACKSON. I yield 1 minute.

Mr. McCLURE. I wanted to make sure I understood one of the statements made by the Senator from Colorado. I understood him to say that under the conference report, if the President felt there was a price increase justified, that would be reported to Congress; is that correct? Is that what the Senator said?

Mr. HASKELL. I do not know what I said, but I will answer the Senator's question. My understanding is that under the conference report, the price was set at $5.25, but under special categories of oil, at the recommendation of the President, it can go up to an average of as high as but no higher than $7.09. It was the intent of Congress, as developed on the floor when the conference report was before us, that for certain categories of stripper wells the price would go higher, and for certain categories of new oil it would go higher.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JACKSON. I yield 1 additional minute. Let me supplement that comment by referring to page 11 of the conference report, under section 110:

(B) Every price proposed to be specified pursuant to this subsection which specifies a different price or manner for determining the price for domestic crude oil provided for in paragraph (3) of this subsection, and every price specified for (or every prescribed manner for determining the ceiling price of) residual fuel oil and refined petroleum products, shall be transmitted to the Congress and shall be accompanied by a detailed analysis

Setting forth the various required findings that appear on page 12.

Mr. McCLURE. Will the Senator yield for a comment, on that point only?

Mr. JACKSON. I yield 1 minute.

Mr. McCLURE. I do not want any misapprehension as to the procedures required under the conference report in regard to pricing changes.

I had understood the Senator from Colorado to say that it had to be sent to Congress, and the Senator from Washington (Mr. JACKSON) indicated that that was true. But is it not a fact that it is subject to the Administrative Procedure Act with respect to heating pricing changes and not subject to congressional action?

Mr. JACKSON. The President has to make findings pursuant to the Administrative Procedure Act.

Mr. McCLURE. That is correct.

Mr. JACKSON. And he must submit them to Congress, as set forth in the conference report, section 110(b); and they must be supported by a preponderance of the evidence.

Mr. McCLURE. By substantial evidence.

Mr. JACKSON. A preponderance of the evidence.

Mr. McCLURE. That is correct. A court proceeding is necessary to change the price in accordance with the course of events.

Mr. JACKSON. A court challenge is possible, yes, if the findings have no basis in fact or are arbitrary and capricious.

Mr. President, I yield 5 minutes to the distinguished Senator from Alaska.

Mr. GRAVEL. I wonder if the Senator from Washington would be willing to answer some questions for me, since he has been generous in responding to the questions of others.

I did not quite get the figures for 1973.

Mr. JACKSON. It is $3.40, and it rose in 1973.

Mr. GRAVEL. It is $3.40, and it rose to——

Mr. JACKSON. To $6.94, the national average.

Mr. GRAVEL. That means that anybody who had a pool of oil that had a substantial accretion of value, without any additional cost—and that is included in the reasoning for the rollback——

Mr. JACKSON. That is correct.

Mr. GRAVEL. What would be the other part?

Mr. JACKSON. We have not reached the bottom price. The 29 percent of the domestic crude oil being produced today is no longer regulated, as I pointed out under the law, as we have interpreted it under the Mandatory Allocation Act. I think it is illegal. I think there is a requirement that the President put a ceiling on everything except stripper wells.

But the point is that the word we had from the administration was that by the end of this year the total amount decontrolled would run about 42 percent of domestic production. So the price has been and is going up every week.

Mr. GRAVEL. I do not choose to quarrel with the Senator on that matter. I would like to get to the fundamentals, because we can become lost in numbers.

When we get down to numbers, I think that what the Senator objects to is that if somebody owns a pool of oil, and then the Arabs increase their price of oil, which raises the umbrella anew, he enjoys that economic benefit.

Mr. JACKSON. The Senator seems to agree with my position.

Mr. GRAVEL. I just pointed out——

Mr. JACKSON. I want to understand what we are talking about. Under my rationale, it is very simple. Prices have gone way up, but production has not moved.

Mr. GRAVEL. Let us talk about values. Suppose I own a pool of oil. I have not done one thing to it. But because the Arabs have raised the price of oil, it is worth twice as much as it was before. The Senator now wants to——

Mr. JACKSON. I just want to object to a windfall profit.

Mr. GRAVEL. I am not quarreling about that. I want to be sure of what the Senator is talking about. If I have a million barrels of oil, and they are worth $5.50 a barrel, and the price goes to $6.50, the Senator is arguing that I should not enjoy the $6.50.

Mr. JACKSON. Obviously, the whole thrust of the price increase argument is to bring in the new production.

Mr. GRAVEL. That is another argument.

Mr. JACKSON. What argument is the Senator making?

Mr. GRAVEL. Suppose the Senator from Washington owns a duplex, and real estate values go up, but he has not done a thing to the duplex. Suppose he rents the duplex. Under the same philosophical approach, would he not be amenable to passing a law so that the increased value could be added to what an individual would have to pay?

Mr. JACKSON. Now look, let us not compare duplex apartments with the oil industry. The oil industry is a business affecting the public interest.

Mr. GRAVEL. My colleague says that land is the most vital part of the economic system. He implies that we can turn around and destroy the economic values in oil, but that it is different in regard to land.

Mr. JACKSON. We argued that the last time, with wheat and meat in February. My wife and I stopped eating meat, but can we stop using gas? We are talking about two totally different things.

Mr. GRAVEL. We can sooner live with less gasoline than we can with less meat, because we need a certain amount of meat in order just to be able to walk around. So what comes first is food. Now I want to get the record clear——

Mr. JACKSON. Is there a substitute for gasoline?

Mr. GRAVEL. I want to get the record clear that philosophically it is OK to roll back economic gains in the oil inindustry, but it is not OK to do it with land; is that correct?

Mr. JACKSON. The Senator knows it is absurd to try to compare two different situations. The point is that the oil industry is a business affecting the public interest. It goes to the very lifeblood of the economy of the country. The public has learned to get by without meat. We have had our meatless days, as the Senator knows. But can we, in this country, go for long without petroleum? To do so would bring the economy to a grinding halt. But we could go without meat, or change to eating fish or other proteins, but we cannot go from oil to something comparable to oil and still get the energy we need. It is that simple.

Mr. GRAVEL. The point I have made with the Senator from Washington is the crux of this entire matter; and that is, for some unknown reason we throw away the economics book with respect to oil. But when it comes to food and other areas we use a different standard.

I submit that if we really want to stop inflation—and I hope that is the motivation of my colleagues—the way to do it is not by government edict. If we could do it in oil, if we could pass a law to roll back prices on oil, then why not do it in other areas. Let us roll back this ungodly inflation that afflicts us all. Why not do it?

Mr. JACKSON. Did the Senator not vote for the Economic Stabilization Act?

Mr. GRAVEL. Yes; and I made a mistake. I hope that we have the opportunity to repeal that Act. You know something, Senator, I not only made that mistake, but I voted for your Allocations Act, and that was an even bigger mistake. [Laughter.] Because if there is anything that has fouled up this country since——

Mr. JACKSON. Well now, if the Senator will yield—

Mr. GRAVEL. Let me finish. We have a beautiful example here. We in the United States have the opportunity to let the market clear itself and, thereby, provide people with energy. But what did we do? We turned around and jumped into the marketplace and established these allocations.

In Germany, they did not do that, and today there are no lines in Germany waiting for gasoline. The price is up there, as it is here. So if that does not prove one thing about the idiocy of the Government's going into the marketplace and destroying the semblance of sanity we have left, I do not know what does.

So what have we done here in this country? We have put the lines in. It was the Government that created the lines waiting at the gas stations. We talk about the cost. What does it cost the average taxpayer to wait in line, spending an hour or 2 hours or 3 hours a week? Figure that out. Say they work for $5 or $10 an hour—compute that—that is about three times what his gasoline is costing him. So I think it would be cheaper to double the price of the gasoline. He would still be better off.

So we put him in the lines. The price of gasoline still goes up. But if we could pass a law to stop inflation, we would have done that a long time ago.

What the President is referring to—and I find myself very few times in agreement with President Nixon—unfortunately, his travail these days will prevent him from really stating the point strongly, but he stated it correctly when he said: "This will cause inflation."

I should therefore like to ask my colleague from Washington, why would he, or why would I, as an investor, turn around and invest any money to find oil in this country when we can find oil abroad and then sell it back to ourselves at twice the price? I ask my colleague, would he invest his money that way?

Mr. JACKSON. I have no interest in oil or indeed in any stocks. Let me point out to my good friend that when the country sees the first quarter earnings reports of the oil companies for 1974, they will get the shock of their lives. The profits in this industry are so scandalous that the word is around in Wall Street that the industry is looking for all sorts of diversification. The industry wants to buy up non-oil industries. They are going into real estate—anything to

get depreciation, or writeoffs, or artificial losses, to shelter their huge earnings from oil.

Mr. GRAVEL. Well, I ask my colleague, why would they do that if oil is so good? They would keep their money there. But they are going into real estate because it is no good.

Mr. JACKSON. The Gulf Oil Co. wants to buy the Ringling Brothers Circus.

Mr. GRAVEL. Right, because it is no good in oil. They might as well run a circus, particularly when we are managing it. [Laughter.]

The PRESIDING OFFICER (Mr. HELMS). The Senator from Washington (Mr. JACKSON) has the floor.

EXEMPTION OF MAJOR CATEGORIES OF CRUDE OIL FROM PRICE CEILINGS UNDER THE ALLOCATION ACT IS CONTRARY TO LAW

Mr. JACKSON. Mr. President, on February 2, 1974, I wrote to Mr. Simon, the Administrator of the Federal Energy Office, concerning the President's authority to decontrol oil prices.

The purpose of that letter was to point out that section 4 of the Emergency Petroleum Allocation Act which was signed into law on November 27, 1973, requires that the President promulgate a regulation providing for the allocation of crude oil at equitable prices. In effect, the Allocation Act mandates that all crude oil be placed under some form of reasonable and equitable price ceilings.

I have yet to receive an answer to my letter. The administration has yet to cite any legal authority which authorizes the exemptions of new oil, released oil or State royalty oil from the price ceiling requirement of the Allocation Act. Yet, this is what the administration has done.

Instead, the President purports to justify his disregard of the pricing provisions of the Allocation Act by vetoing the Energy Emergency Act because it imposes reasonable price ceilings.

Mr. President, the administration's failure to impose price ceilings in accord with the Allocation Act is irresponsible. They have had 1 month in which to present any justification for this action. None has been presented.

Today's veto of the Emergency Act does not and cannot undo the price ceiling requirements of the Petroleum Allocation Act.

Mr. President, the administration's action in exempting major categories of crude oil from all price ceilings is, in my view, illegal. It violates the clear and plain meaning of the law.

It is apparent that if the law is to be enforced, Congress will have to take specific action to set and establish reasonable price ceilings.

This is what the Congress did in adopting section 110 of the Emergency Energy Act.

The issue now before the Senate is whether the Congress is going to roll over and play dead.

Are we going to permit actions which are in clear violation of the law to take place?

Are we going to allow the Arab cartel to set domestic oil prices?

Are we going to ignore the needs of the American consumer?

In short, is Congress going to exercise independent judgment in making national energy policy?

Mr. President, I ask unanimous consent that a letter and a statement discussing the President's authority to exempt categories of crude oil from price ceilings under the Allocation Act appear in the RECORD.

Mr. President, I further ask that the RECORD include the communication Senator FANNIN sent the Members yesterday commenting upon my statements on the floor debate February 18 and 19, together with my point-by-point reply to his comments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 2, 1974.

Hon. WILLIAM E. SIMON,
Administrator, Federal Energy Office, Washington, D.C.

DEAR MR. SIMON: At the conclusion of the testimony of Administration witnesses at the Committee's hearings on Friday, February 1, 1974, on S. 2885, a bill I introduced to roll back and establish price ceilings for crude oil and refined petroleum products, questions were raised concerning the Administrator's authority to exempt new oil, released oil, and State royalty oil from the regulations implementing the price ceiling provisions of the Emergency Petroleum Allocation Act.

Legal Counsel to the Committee has advised me that the Administration is in apparent violation of the pricing requirements of Section 4 of the Allocation Act. Section 4(a) of the Act provides that "the President *shall* promulgate a regulation providing for the mandatory allocation" of crude oil and petroleum products "in amounts . . . and at prices specified in (or determined in a manner prescribed by) such regulation" (emphasis added).

Section 4(b)(1)(F) provides that the regulation "*shall* provide for" . . . "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at *equitable prices* among all regions and areas of the United States and sectors of the petroleum industry . . . " (emphasis added).

Section 4(e) provides one exception to this requirement that all oil prices be placed under price ceilings. Section 4(e)(2) provides that the regulation promulgated under Section 4(a) on allocations and on prices "shall not apply to the first sale of crude oil . . ." from stripper wells.

Section 4(e)(1) provides a procedure for suspending allocation authority *if* the President makes and transmits to the Congress a finding that mandatory allocation is no longer needed to achieve the purposes of the Act. This procedure *does not* permit suspension of the Act's requirement that oil prices be "specified in (or determined in a manner prescribed by)" the regulation required under section 4(a) of the Act.

I would appreciate it if you would furnish me with a report and a legal memorandum on this matter. I am specifically interested in your views as to the legal authority for exempting new oil, released oil, and State royalty oil from the price requirements of the Emergency Petroleum Allocation Act.

As I understand it, the Administration's position on allowing major exemptions to price ceilings may be based in part upon an interpretation of the Conference Report on the Allocation Act which was contained in a letter of November 13, 1973, to me from Dr. John T. Dunlop, Director of the Cost of Living Council. Dr. Dunlop's letter dealt with his understanding of provisions of the Report dealing with stripper wells, pricing and personnel. In connection with the adoption of the Conference Report, I had Dr. Dunlop's letter together with other materials printed in the Congressional Record and indicated general concurrence in Dr. Dunlop's interpretation.

On further review of the clear meaning of the Act and Dr. Dunlop's November 13 interpretation it is my view that the Act does not permit these exceptions to the price requirements of the Act. To the extent I expressed concurrence in Dr. Dunlop's interpretation of the pricing authority and directive in the Act I was in error. In any event, the concurrence of any single member of Congress in an interpretation of the law does not change the meaning or requirements of the law.

I do concur in Dr. Dunlop's statement in his letter that " . . . the administering agency which has been delegated price control authority under both statutes would be obligated to comply with the provisions of both."

I appreciate your assistance in this matter and I assure you of my cooperation and assistance in achieving a new level of stability and reasonableness in petroleum prices. As you know, the Conference Committee will meet on Monday on S. 2589, the Energy Emergency Act, to work out a resolution of the controversy over the windfall profit provisions of the Conference Report. As you know, I and other members of the Conference Committee will be proposing language to mandate a price ceiling for oil which has been exempted from price controls. I have directed the Committee staff to meet with representatives of your office to discuss how this can best be achieved. Meetings were held last night and a further meeting is scheduled at noon today.

With best regards,

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

SENATOR JACKSON'S REPLY TO SENATOR FANNIN'S MARCH 5 LETTER

THE RELATIONSHIP OF PRICES AND PRODUCTION

Senator Jackson said that:

Respected oil analysts . . . say that these [current] price levels will not buy increased supply.

Senator Fannin says that:

Due to existing prices the U.S. petroleum industry plans to invest over 19.5 billion dollars in 1974 (19,531,000,000), of which $12,134,000,000 is for exploration and production of petroleum. Funds budgeted for drilling and exploration ($7,669,000,000) represent a 16 percent increase over 1973. These investments would not be made unless the industry expected to be able to increase supply. A price rollback would result in investment cutbacks and thereby decreases in production.

The fact is that:

Neither Senator Fannin nor anyone else has presented any evidence or analysis to show that 1974 investment in domestic oil exploration would be greater with crude oil prices at $10 per barrel than they would at $7.09 or even $5.25. Mr. Simon has repeatedly said that a price of about $7 will bring forth as much effort "as we reasonably can expect to get."

CONSTRAINTS ON SUPPLY

Senator Jackson said:

The real constraint on supply today is not price . . . the constraints today are shortages . . . manpower, tubular goods, drilling rigs . . .

Senator Fannin says that:

Higher selling prices for crude enable oil producers to "bid" steel, manpower, and other materials away from other sectors of the economy. This price mechanism is the most efficient allocator of resources of any

kind. On February 26, 1974, the Cost of Living Council removed oil field machinery from price controls, which should permit higher prices for such equipment. The result is that manufacturers of such equipment can now make a profit on the manufacture of that equipment, which should help ease the material shortages Senator Jackson alluded to.

The facts are that:

Supplies of certain critical equipment and materials for drilling are in absolutely short supply that no price increases can remedy. Order backlogs for tubular drilling goods average at least one year. Neither Mr. Fannin nor anyone else has offered any evidence or analysis showing that the supply of these inputs would be greater with $10 crude oil than at $7.09 or $5.25.

THE NEED TO TIGHTEN PRICE "LOOPHOLES"

Senator Jackson said:

. . . loopholes enable the unscrupulous to take advantage to double the value of their "old" oil—their presently producing fields—by simply drilling and pumping the oil through new wells.

Senator Fannin says that:

This is not true. "New" production must be from a new or different lease, not only from a new well, unless the total production from the lease is greater than the rate of production in 1972 (month-for-month). Only the excess of current production over the base period is "new" oil, from any given lease. Furthermore, excess or incremental production credits not used in any given lease may not be credited to another lease. The incentive to produce new crude is not a loophole. Before any benefit can be derived new oil must in fact be produced."

The facts are that:

The same producing field often lies under more than one "property" or lease. It is indeed possible to produce "new" oil from such fields at the expense of "old" oil, either by draining them from neighboring previously undrilled leases, or by increasing production from wells on some leases on the field at the expense of others.

More importantly, Professors Franklin Fisher and Edward Erickson have shown that even small increases in field prices reduce success rates in exploratory drilling by shifting drilling effort from the risky search for large reservoirs in new areas to the more certain development of small reservoirs in old fields. Where inputs to drilling are in limited supply, very large price increases can be expected to result in small short term production gains from more intensive drilling of old fields, but at a substantial cost in new discoveries. It is not obvious whether that large price increase for crude oil (such as the doubling and tripling that has taken place in the last year) would actually increase rather than decrease production one year from now.

THE ENERGY EMERGENCY ACT AND THE U.S. CONSUMER

Senator Jackson said that:

An increase of 34,000 barrels per day . . . is what the American consumer is getting in the way of new supply at a cost of $20 million a day.

Senator Fannin says that:

About 30% of total production is free of price controls. If it all were selling at $10.35 per barrel, which it is not, and were rolled back to $5.25 per barrel, or cut $5.10, the so-called saving would be $16.6 million. This might reduce pump prices by one cent per gallon, but would have considerable negative impact on future supply expectations. The American consumer already spends over $140 million every day on gasoline alone, of which State and Federal taxes amount to over $33 million per day.

The facts are that:

The savings from rolling back all domestic oil to $5.25 would be:

February 1974, $16.3 million per day; December 1974, $24.5 million per day.

February 1974, $2.4 cents per gallon; December 1974, $3.0 cents per gallon.

The savings from rolling back "new" and stripper well oil to $7.09, released oil to $5.25 would be:

February 1974, $11.5 million per day; December 1974, $21.4 million per day.

February 1974, $1.7 cents per gallon; December 1974, $2.6 cents per gallon.

The basis of the foregoing calculations is as follows:

	1974 (million barrels per day)		
	February	December	Price
Imports	5.1	8.0	$10.35
Stripper oil	1.4	1.4	10.35
New oil	1.2	2.0	10.35
Released oil	.6	1.4	10.35
Controlled oil	7.7	6.1	5.25

THE PRICES TO BE PAID FOR STRIPPER WELL PRODUCTION UNDER S. 2589

Senator Randolph said:

. . . in the State of West Virginia, when we talk about the maximum for stripper production it would come to approximately $8.00 a barrel rather than $7.09 that is frequently referred to [by Senator Jackson]. . . . There is flexibility in this provision, Section 110, to deal with the special situation regarding stripper wells and secondary and tertiary recovery . . .

Senator Jackson said:

The Senator (Mr. Randolph) is correct.

Senator Fannin says that:

The price of stripper well crude under S. 2589 would be limited to $5.25 per barrel unless raised to $7.09, except for Pennsylvania grade crude such as is produced in West Virginia. Thus, the "flexibility" referred to by Senator Randolph and agreed to by Senator Jackson is limited to Pennsylvania grade crude production. In November of 1973, Pennsylvania grade crude production was only 36,200 barrels a day as contrasted to the total of 9,144,000 barrels a day produced within the United States. The crude to which the "flexibility" in price referred to by Senator Randolph applies to only .04 percent of total national production. Thus, for all practical purposes, the price ceiling on U.S. crude production established by S. 2589 would be $5.25 per barrel, with a possible upward adjustment to $7.09—not $8.00 per barrel as otherwise alleged.

The fact is that:

Both the $5.25 and $7.09 figures are *average* price ceilings, not absolute ceilings. The ceiling provided by paragraph (3) of the rollback provision is "the sum of—

"(A) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil which is most similar in kind and quality at the nearest field for which prices are posted; and

"(B) a maximum of $1.35 per barrel."

This provision results in an average price of $5.25, but it provides prices across the nation ranging from about $3.30 to $6.50, depending upon the grade and location of the crude oil.

Paragraph (5)(A) provides that no ceiling price "shall exceed the ceiling price provided in paragraph (3) . . . by more than 35 percent."

This provision would permit an average price no higher than $7.09, but the ceiling for individual grades of crude oil in certain fields might be as high as $8.50.

PROPANE PRICES

Senator Jackson said:

I had the words "including propane" added to the provision so as to remove any question about having it covered. Specifically, we estimate a rollback of about 50 percent in the price of propane if this conference report is adopted. Where the average national price is now about 42 cents, it would go back to about 22 cents.

Senator Fannin says that:

Secretary William Simon stated that "Section 110 of the conference report . . . which calls for a rollback of crude prices to $5.25 per barrel with a ceiling of $7.09 per barrel would have little impact if any in further reducing the price of propane. We feel the action we have already taken should be sufficient to protect American consumers who are dependent upon propane."

What Senator Jackson failed to state is that 68 percent of the propane produced in the United States comes from natural gas wells, all of which are not covered by S. 2589. The Act, accordingly, applies to only 32 percent of U.S. propane supplies. Most of this 32 percent is used as refinery fuel and therefore never reaches the consumer. Thus, if crude prices were set at $7.09 per barrel, the decrease in propane prices would be only a fraction of a cent, not 20 cents.

The facts are:

The principal reason for high propane prices is that the Cost of Living Council and the Federal Energy Office have not attempted to control the price of propane produced from natural gas liquids. They have authority to do so under the Economic Stabilization Act and are directed to do so under the Emergency Petroleum Allocation Act. One of the purposes of Senator Jackson's colloquy quoted by Senator Fannin was to call the attention of FEO to Congress' intention that the price of natural gas liquids, lease condensate, and propane derived from them be covered by price regulations.

Mr. JACKSON. Mr. President, I reserve the remainder of my time.

Mr. BARTLETT. Mr. President, will the Senator from Arizona yield me some time?

Mr. FANNIN. Mr. President, I yield 4 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 4 minutes.

Mr. BARTLETT. Mr. President, I should like to point out that the conference committee report, if it is adopted into final law and the veto is overridden, will result in a reduced amount of money for the exploration of oil and gas. A number of companies have testified that they would reduce their efforts this year by one-third.

Commenting on the statement by the distinguished chairman that production has continued to drop, I have here the quarter production for February 1, 1974, which shows 9,179,000 barrels, which represents an increase of 26,000 barrels a day. There has been a bottoming out and a slight turnaround. We have the possibility of continuing this momentum that now exists to increase our supplies, or we have the opportunity to stop it and to stop it in its tracks.

It makes no sense to me to become more dependent on unreliable foreign oil——

Mr. JACKSON. Mr. President, will the Senator yield out of my time?

Mr. BARTLETT. I yield.

Mr. JACKSON. I think the Senator might be interested in the Oil and Gas Journal for March 4, which is a pretty good source, where it says that the 4-week average of domestic production ending February 22, the latest week, was 9,195 million barrels, 13,000 less than the week before, and 183,000 less than a year ago. The change from a year earlier is a fall of 1.96 percent.

Mr. BARTLETT. I agree with the distinguished chairman that the comparison with a year ago is down. I know that he agrees with me that the comparison of the last week is up. I was refuting his statement saying that progress at the present time is decreasing rather than increasing in production.

But the important thing is that today we are 22 percent—1973—ahead of 1971 in the number of wells being drilled. The distinguished chairman knows that the results of drilling are in direct relationship to the amount of drilling done. He knows that the amount of drilling planned for 1974 is large and a significant increase over that of 1973, but that these plans will not be consummated if he is successful today and the House is successful in overriding the presidential veto. The same thing will happen again as has happened before, that by controlling prices we will reduce the supplies available domestically. We will increase reliance on foreign oil and we will be that much more subject to harassment by them, either with high prices or embargoes or both. So I think that a vote with the distinguished chairman is a vote for continued long lines at the filling stations. It will be a vote for more unemployment. It is a vote for less productivity in this country, less opportunity for this country to be competitive with foreign countries, and less opportunity for us to increase our gross national product, to increase the standard of living, and to remain the No. 1 power.

I think it is vital that we realize that we are at the crossroads, that we do have the opportunity now to bring on additional resources. With the prices that now exist, we can have an opportunity to develop the liquefaction and gasification of coal.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BARTLETT. May I have 1 additional minute?

Mr. FANNIN. I yield the Senator 1 additional minute.

Mr. BARTLETT. We have an opportunity to have extraction of oil from shale and tar sands. But this will go out the window if the veto by the President is overridden today.

It seems strange to me that there seems to be a preference by many people to buy oil and gas from foreigners rather than to buy it from domestic producers and to pay a higher price to foreigners than to domestic producers. As a matter of fact, they are dissatisfied at the present time with paying American producers 61 percent of what they are willing to pay foreign producers, and they want to reduce that to the neighborhood of 50 percent.

I should like to point out to the distinguished chairman that the exploratory locations compared to a year ago are up 33 percent, and the development locations are up 25 percent.

Mr. President, the conference report on Senate bill 2589 contains provisions which continue the policies that the majority of Congress has advocated for the past 20 years. Those policies, more than anything else, have gotten us into the critical situation in which we find ourselves today.

If this bill becomes law, rationing of gasoline and higher and higher prices will most likely be inevitable, for we will be discouraging the production of relatively cheap domestic crude oil and encouraging more imports of higher priced foreign oil—if available at all.

The majority of Congress has long favored policies of Government controls that have led to the current energy crisis. It may be good politics—but it is not good economics for the benefit of the consumer.

The direct and indirect regulation of the price of natural gas at the wellhead and oil has caused dwindling supplies of refined products; and more recently, the policy of allocating the shortages and trying to force rationing upon the public have done nothing to increase supplies of energy for the consumer.

Now, the same congressional leaders seem to advocate paying foreigners for their natural gas and crude oil rather than buying from domestic producers.

The leadership of Congress has been "investigating to death" the petroleum industry. Almost every committee of Congress has a subcommittee on energy. Almost daily some form of harassment of the industry, either by innuendo or inaccurate or misleading facts, comes out of the Congress.

Congress is not facing up to the problem of shortages. Congress, seemingly, is not concerned about how to get from here to there—to get from a condition of shortages to a condition of sufficient energy.

During the late fifties and early sixties shortfall profits, domestically, drove the multinational companies overseas—in search for cheaper and more profitable oil. Congressional leaders, ignoring the high prices and the embargo of foreign oil resulting from overdependence on foreign sources of supply, are favoring once again controlled and reduced domestic prices of oil which will once again drive multinational companies overseas—in search for more profitable oil.

By overriding the President's veto, these same people are assuring the need for more imports of foreign crude oil and products. The Congress is again encouraging the development of foreign resources rather than our own domestic resources. On the average, Congress is not willing to continue to pay an American oil producer 61 percent of the price of oil that they are willing to pay a foreign producer. They only want to pay the American producer 50 percent of what they are willing to pay a foreign producer on the average. Why?

During the 1960's there were many advocates for opening up the gates to cheap imports. The Government, during the 1960's followed a policy of controlled prices for natural gas and depressed prices for crude oil because of threats by various administrations to import more cheap foreign oil.

So far, Congress continues to follow the same policies, except in an even more restrictive manner, that have gotten us into this energy mess. Congress continues to advocate controlling the wellhead price of natural gas, and even rolling back in the law the price for domestic crude oil, plus the importation of larger amounts of expensive and unreliable foreign oil.

Congressional policies continue to exacerbate the domestic energy supply situation by holding down prices while advocating paying higher prices for foreign crude oil.

Congress is advocating less productivity and less ability for this Nation to compete with foreign countries at a time of domestic and worldwide shortages.

We may as well ask the Arabs to run our domestic oil industry, too. It seems the leadership of Congress has more faith in the foreign oil producing countries than it does in our own domestic oil industry.

Mr. President, these are the same policies that got us where we are today, and they are the same policies that will lead us to long lines at the service stations, more unemployment, higher inflation, rationing, and greater dependence upon unreliable sources of crude oil to the extent that we will become a second-rate world power.

In my opinion, a vote for this measure is a vote to make the United States become a weak and stumbling giant, and the main concern that other nations will have for us is that we do not hurt them in our fall.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. I yield 4 minutes to the distinguished Senator from Texas.

Mr. TOWER. I thank the Senator.

Mr. President, I associate myself with the remarks of the distinguished Senator from Oklahoma. He is absolutely right.

I should like to read for the benefit of the Senate an item that appeared on the UPI wire the day before yesterday:

> The price rollback feature of the emergency energy bill which President Nixon has threatened to veto would cost the Nation 11.5 billion gallons of domestic oil within a year; a leading independent producer said today.
>
> President George Mitchell of the Texas Independent Producers and Royalty Owners Association told the West Central Texas Oil and Gas Association that oil price controls likely will prevent the drilling of 3,000 new wells in the United States as it is. He estimated that at least 275 million barrels of oil production probably would be discovered in those wells that will not be drilled, and he said the oil price rollback, if it stands, will styme efforts to produce substantial amounts of marginal oil from existing wells.

Mr. President, if we fail to sustain this veto, what we are going to do is probably wipe out approximately 12 percent of our domestic crude production that is mar-

ginal production. To try to make scapegoats of the major oil companies or try to roll back prices for some cosmetic effect is not going to solve the shortage. As a matter of fact, it is going to exacerbate the shortage.

With respect to all this talk about oil company profits, the oil companies buy their crude from independent producers. So what we are talking about is the oil companies as customers. This does not affect their profit picture at all. It might be that they will have to pass along higher prices to the consumer. But it will also mean that even higher priced crude will not have to be imported in greater quantities.

I cannot understand why the Members of the Senate would prefer that we buy foreign crude oil, Middle Eastern crude oil, at a greater price than buy domestic crude at a lesser price, albeit a higher price than we are accustomed to pay. It does not make any sense.

There is another aspect of this bill that should cause it to fall, and that is the provision known as section 108, which would transfer the conservation functions of the States to Federal officials in the executive branch, because it would permit these officials to second guess so-called MER, or maximum efficient rate of production. That could result in taking conservation management out of the hands of State authorities who are well experienced and familiar with the problem and placing it in the hands of Federal administrators who do not know what they are doing. If the Federal Government forces these wells to produce at above the maximum efficient rate for immediate short-term gain, in terms of additional supplies of crude, we will be selling ourselves down the river in the future, from the standpoint of trying to maintain some reasonable degree of self-sufficiency in crude oil in the United States.

I do not understand the apparent love feast between some Members of this body and the Arabs. Rather than buy domestic oil, they would buy Arabian oil and pay a higher price for it. The same syndrome is apparent in their refusal to support measures to deregulate the price of natural gas. Let the mechanism of the marketplace work its will.

The PRESIDING OFFICER. The time of the Senater has expired.

Mr. FANNIN. I yield the Senator 1 additional minute.

Mr. TOWER. We pay more for our natural gas that we produce in Texas than people pay in the Northeast, because they get it at an artificially low price as a result of regulation. We do not complain about it in our State. We are delighted to have the gas.

What I am saying now is that if Senators want a source of energy in this country that is secure—that is to say, largely a domestic source—they had better vote to sustain the President on this bill, or I promise that they will destroy marginal production in this country and will stifle new drilling in the process.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. BARTLETT. I believe that 4 of the 5 largest producers of oil and gas are in the 14 largest consumer State categories of all the States. Texas is one, Oklahoma is one, California is one, and Louisiana is the fourth.

Mr. TOWER. The Senator is correct. There is a lesson to be learned there.

Mr. FANNIN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield 10 minutes to the distinguished Senator from West Virginia.

SENATOR RANDOLPH URGES OVERRIDE OF PRESIDENT'S VETO OF ENERGY EMERGENCY ACT

Mr. RANDOLPH. Mr. President, in vetoing the Energy Emergency Act, President Nixon is wrong in his purposes and in error in his reasoning. As suggested by a March 3, 1974, editorial in the Washington Post, this action provides "somber evidence of the degree to which the President has now removed himself from the concerns of his fellow citizens, and the isolation in which he wraps himself."

Shortages have dealt a deft blow to the American consumer who has been subjected to energy shortages, to threatened strikes, and in many instances, to unemployment and to higher prices. After being called on to institute voluntary energy conservation actions by lowering the thermostats, by driving autos and trucks slower, by carpooling, and by many other self-motivated conservation initiatives—the American people are now being told by the President's veto message that they are going to have to pay more, that they are not going to be eligible for special unemployment compensation, and that they are not going to be assured of the minimum supply that rationing can provide.

Mr. President, let us examine the validity of some of the reasons used by President Nixon to justify his veto of the Energy Emergency Act.

PRICE ROLLBACK

Speaking of price rollbacks the President said—

The Energy Emergency Act would set domestic crude oil prices at such low levels that the oil industry would be unable to sustain its present production of petroleum products, including gasoline. It would result in reduced energy supplies, longer lines at the gas pump, minimal, if any, reduction in gasoline prices, and worst of all, serious damage to jobs in America. Unemployment would go up, and incomes would go down.

The Chief Executive added—

The rollback would not only cut domestic oil production, but would also retard imports since in the present environment oil companies are reluctant to import oil and gasoline that would have to be sold at prices far above the domestic prices.

So says the President. I do not agree with his argument. He added further—

As we call on industry to provide these supplies, I feel very strongly that we must also insure that oil companies do not benefit excessively from the energy problem. I continue to believe that the most effective remedy for unreasonably high profits is the windfall profits tax which I have proposed. That tax would eliminate unjust profits for the oil companies, but instead of reducing supplies, it would encourage expanded research, exploration and production of new energy resources.

But let us examine the facts. In mandating a rollback in the price of crude oil and refined petroleum products, the Congress is simply directing the President to exercise authority he already has under the Economic Stabilization Act of 1970 and the Emergency Petroleum Allocation Act of 1973.

The President also is incorrect in his assumption that shortages are going to vanish overnight simply because crude oil prices are allowed to rise. Between January 1973, and January 1974, the average domestic price has doubled from $3.40 to $6.75 a barrel. Yet domestic production has climbed by less than one-third of 1 percent—34,000 barrels out of a total 10,893,000 barrels per day during this period.

The real constraint is not oil prices but shortages of trained manpower, tubular goods, drilling rigs, and many other materials needed by this high-technology industry.

The legislation guarantees a minimum domestic average price of about $5.25 with a ceiling price of about $7.09 a barrel. These prices seem realistic for the next year compared to investment requirements. Senator JACKSON in Senate debate on the conference report recalled that in January 1974 the Federal Energy Office noted—

No one knows exactly what the long-term supply price is, as no one can predict in the future that clearly. Our best estimate is that it would be in the neighborhood of $7 per barrel within the next few years.

In December 1973 the Department of the Treasury said—

The long-term supply price of bringing in the alternate sources of energy in this country, as well as drilling in the Outer Continental Shelf and the North Slope—is $7 a barrel, current 1973 dollars.

Currently the average international oil price is $10 per barrel but the majority of this is a tax that goes to the producing countries not to the international oil companies.

Should domestic oil prices climb to this artificial price, there will be unprecedented profits to oil companies borne on the shoulders of the American consumer, without any substantial increase in supplies.

It is more in the public's interest to prevent excessive profits before they occur rather than tax them after the fact—as suggested by the President. Under such an approach, the consumer still must bear the expenditure of high-cost energy supplies, while profits are drained into general tax revenues.

UNEMPLOYMENT COMPENSATION

After admitting that unemployment will occur because of the energy crisis, the President's second major premise is that—

The Energy Emergency Act is also objectionable because it would establish an unworkable and inequitable program of unemployment payments. Under it, the Government would be saddled with the impossible

task of determining whether the unemployment of each of the Nation's jobless workers is "energy related."

Mr. President, I call to the Senate's attention the expressed concern over the coverage of this provision is unwarranted. Under the conference report on S. 2689 the President by regulation is given total discretion to define the nature of the criteria or formulas to be followed by States before they would be entitled to receive grants in aid for energy-related unemployment compensation. Sufficient flexibility would be available within the authority to restrict coverage sufficiently to overcome President Nixon's expressed concerns.

This authority is being provided as an interim measure for 1 year pending enactment of long-term legislation to strengthen our regular unemployment insurance program. As an emergency action it must be emphasized that such coverage could not exceed 1 year. The President's accusation that this program is a "shoveling out the taxpayer's money under a standard so vague and in a fashion so arbitrary," it seems to me unwarranted.

A MATTER OF PERSPECTIVE

I agree with the President's statement that—

The energy shortage has been a pressing problem for the American people for several months now. We have made every effort to soften the impact of this problem. We have come through this winter without serious hardship due to heating oil shortages.

However, Mr. President, there is no question but that this was due principally to the voluntary actions of American citizens and the blessing of a much warmer winter than anticipated. The administration's mandatory petroleum allocation is only a few weeks old.

I am convinced that the United States faces a deepening energy crisis and extraordinary steps are needed to assure millions of citizens that steady energy supplies will be available.

On November 7, 1973, President Nixon made a major address to the American people on the energy emergency facing our country. On the next day a special message was sent to the Congress proposing that—

The Administration and the Congress join forces and together, in a bipartisan spirit, work to enact an emergency energy bill.

It was the President's expressed hope that—

By pushing forward together, we can have new emergency legislation on the books before the Congress recesses in December.

Despite renewed assurances from the President, the full cooperation of the administration with the Congres has not been witnessed.

In the President's own words—

Unfortunately, there are some who have chosen to capitalize on the Nation's energy problems in an effort to obtain purely political benefits. Regrettably, the few who are so motivated have managed to produce the delays, confusion, and finally the tangled and ineffective result which is before me today. The amendments, counter-amendments, and parliamentary puzzles which have marked the stumbling route of this bill through the Congress must well make Americans wonder what has been going on in Washington while they confront their own very real problems. We must now join together to show the country what good government means.

Unfortunately this statement portrays the Congress as the obstacle to the enactment of necessary energy emergency legislation. The Congress was prepared to act last December, if it had not been for administration opposition and an implied veto that took us back to House-Senate conference.

Then, last month, the Senate and the House of Representatives overwhelmingly endorsed the conference report on S. 2589.

Mr. President, among the needed authorities in the conference report is a provision creating a temporary Federal Energy Emergency Administration. Until more permanent authority is enacted, this authority is needed for the effective administration of the mandatory allocation program currently operated by the Federal Energy Office.

The Federal Energy Office is functioning under Executive Order 11748 of December 4, 1973. All the Federal Energy Office's employees are on loan from other Federal agencies and there is little if any authority to hire the necessary personnel to effectively administer these programs.

This authority is needed so that direct appropriations can be provided for these vital programs. As expressed last week by John Sawhill, Deputy Administrator of the Federal Energy Office, at hearings before the Senate Interior Committee:

I wish the Congress would give us a bill (to provide the necessary resources, particularly of personnel) so we had statutory base for our organization, so we could have some of the people onboard in the Chicago office, I don't know what the figures are, but we probably have 90 people detailed in from other agencies. How are we going to make a process work when yesterday somebody was a chicken inspector and today they are supposed to be running an allocation program.

Mr. President, the necessary authority for a temporary Federal Energy Administration is contained in the Energy Emergency Act, until such time as the Federal Energy Emergency Act is enacted.

This is one example of the numerous authorizations and mandatory provisions in this legislation which are needed to cope with the immediate energy crisis.

In his veto message President Nixon speaks to the need for emergency energy legislation. Among the needed authorities identified in his veto message are—

We need the authority to require energy conservation measures. We need the direct authority to ration gasoline if, and only if, rationing becomes necessary, which it has not. We need the authority to require conversion of power plants, where possible, to permit the use of our abundant coal reserves.

I must stress, Mr. President, that these are the authorities and, vitally needed authorities, contained in the conference report on S. 2589. I will vote to override the President's veto.

Mr. President, we will decide this issue in a few minutes. I am certain that each Member will vote his conviction. I doubt that there is a sufficient number of Senators to provide the necessary two-thirds majority to override the President's veto. It will be demonstrated, however, that a substantial majority of the Members of this body disagree with the action of the Chief Executive.

Mr. FANNIN. Mr. President, I yield 4 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, it was very difficult for all of us in Congress to believe last fall that we actually faced and were in the middle of a fuel crisis in this country. I know from trips home that the people at home find it difficult to believe and that they no longer do.

What the American people are looking to us for is some relief. I suggest that the American people want fuel, the American people want gasoline, the American people want everything needed that comes from petroleum to provide heat, propulsion, and the other things we get from petroleum products. They do not want more regulation.

I asked the distinguished leader of this bill before we departed for the Christmas vacation to name for me where 1 additional gallon of gasoline was coming from the 32 bills we discussed, none of which had been passed. I did not get any answer except the Alaskan pipeline, and I suggested that had nothing to do with the present legislation.

Nor did the Elk Hills opening in northern California have anything to do with it. And I still claim the emergency measures we have taken have not given to the American people one thimbleful of gasoline for their cars. To sit here and debate day after day after day how we are going to regulate the oil companies, how we are going to cut down on their profits, how we are going to regulate and control, even down to the gasoline station operations, to me is senseless. I do not think the American people approve of it.

For instance, we need new domestic sources. For years—I would say 40 years—we have made those who engaged in fuel exploration almost criminals. We have discouraged such a person. We have talked against him. We have passed prohibitive regulations in the field of natural gas, and in my State we depend on natural gas to produce 52 percent of the copper produced in this country.

We want more fuel. That is what Americans want. When they look at what foreigners have to pay for gasoline, they realize how lucky we have been in this country year after year. They do not like to wait for hours in line for gasoline. I think Americans would be glad to pay a little more if they thought it was going to relieve fuel supplies. We need new domestic sources.

Do my colleagues know what we are going to do if this piece of legislation becomes law? We are going to discourage every small driller that can produce 10 or 12 barrels a day, who might produce 20 barrels, from producing anything. And at the present time that is the only place we are going to get additional petroleum.

We need refineries. I am told by people whose expertise I respect that we need 80 refineries now—not 5 or 10 years from now, but now. They tell me we have enough crude oil to make gasoline, but, again, we have discouraged this kind of investment in the past, and now that we need them, I do not know who is build-

ing the new refineries. We are talking about building one in Arizona, and I hope we will be able to go ahead with it. Instead of talking about regulating and excess profits and that sort of thing, we could have interested people to go ahead and invest and build refineries.

Another thing we need in this country and do not have—in fact, I think we have one, and that is off Long Beach, Calif., and it is not a modern facility—is the ability to offload the large modern tanker. Neither do we make the large modern tanker. They are being made in other places in the world. I was in Iran recently and saw at one loading dock 13 tankers of over 200,000 tons. Not one of those tankers could be unloaded in the United States, because we have not built the facilities. Again, instead of spending our time talking about regulation, and so forth, why have we not done something to make it a little encouraging for companies or people to build those badly needed offload facilities? We are not looking even at 200,000 ton tankers. In Iran they are providing for unloading 500,000 ton tankers, and we have no place in the United States now that can begin to take care of an offload like that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GOLDWATER. Mr. President, I will vote to sustain the President's veto because the bill is pure, unadulterated, 100 percent hogwash.

Mr. FANNIN. Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I yield 10 minutes to the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. MUSKIE. Mr. President, with respect to the comments just made by the distinguished Senator from Arizona (Mr. GOLDWATER), let me read from the President's veto message his view about the importance of the legislation which we are considering, and I read the following paragraph:

> We need the authority to require energy conservation measures. We need the direct authority to ration gasoline if, and only if, rationing becomes necessary, which it has not. We need the authority to require conversion of power plants, where possible, to permit the use of our abundant coal reserves.

These three needs which the President describes even now in a message vetoing the bill are essential national policy, he tells us.

Mr. President, he told us the same things last December, and it was in response to his urging and that of his administration that we in the Senate, and the two Houses in conference worked long days and long hours to iron out our differences and produce this kind of authority.

At that time there were just two hangups: One, the nature of the conservation authority we should give to the Energy Administrator, Mr. Simon; and two, the question of what we should do with respect to whatever windfall profits might be generated from the current situation by the oil companies.

The House was adamant on the so-called windfall profits provisions last December. There was no way to persuade the House to recede. And finally I offered an amendment which suspended the House provisions until January 1975, thus giving us a year to work out those problems.

In addition, I did my best to give the President flexibility with respect to the conservation authority that would be given to Mr. Simon.

When that work was all done, my impression was that, although there were some differences remaining, everybody concerned could live with it—the Senate conferees, the House conferees, and the administration advisers.

But, no; when the bill hit the floor, a filibuster was launched against those suspended windfall profits provisions, and the bill was killed in the closing hours of that session.

So when we came back in this session, we went through the same exercise again; succeeded in persuading the House to substitute, for its windfall profits provisions, the rollback provisions incorporated in the pending bill. And again those provisions were tailored to comments which had been made by Mr. Simon in behalf of the administration. He had said over and over again that he felt the price of crude oil should ultimately settle at about $7 per barrel. Using that figure, and indeed 9 cents more—$7.09 a barrel—the Senate and House conferees wrote in this rollback provision.

Indeed, this rollback provision is attacked from the other side as permitting too much of an increase in the price of petroleum products. Because it is attacked from both sides, I suggest perhaps the provision we have pending before us is a reasonable one.

How high does the administration now think the price of domestic crude should go? We are not told, but on top of page 2 of the mimeographed copy of the veto message there is language which may give us a clue, and I read:

> The rollback would not only cut domestic oil production, but would also retard imports since in the present environment oil companies are reluctant to import oil and gasoline that would have to be sold at prices far above the domestic prices.

Is the President telling us in this language that he believes the price for domestic crude should rise to the levels set by the Arab oil-producing countries? That is what he seems to be saying. What he seems to be saying, therefore, is that if one consents to his veto message and drops the rollback provisions, we can expect that the price for American domestic crude will rise to meet the levels set in the international market by the Arab oil-producing states.

I cannot think of any other way of interpreting that language in the President's veto message.

It was because of the threat—that an arbitrary price would become the market price for domestic crude—that the House and Senate conferees felt impelled to write these rollback provisions into the bill.

I would like to say, Mr. President, that I will vote to override the President's veto because I feel that to abandon this effort to control prices will place those prices in the hands of an administration which seems to be pointing in the direction of the cartel prices set overseas.

Mr. President, I refer to the language at the top of page 2 of the President's veto message to indicate the reason for my position.

It was at the urging of the President that we give him the authority to require energy conservation measures and to ration gasoline, if necessary, that I was willing to work with my colleagues in this body and in the House in order to loosen up some of the environmental safeguards in our environmental law.

I felt that if Americans were going to be asked to conserve heating oil and gasoline by turning down their thermostats and by driving slower and by driving less and all of the other means by which we have been asked to conserve heating oil and gasoline that it was not unreasonable for those of us interested in environmental values to make some small sacrifice, provided that it did not mean the abandonment of our environmental goals.

If these authorities are so unnecessary at the present time that the President is impelled to veto this bill, then I would say to the President that, for one, I will take another look at any further request on his part to modify the environmental laws before I make a decision.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, I yield 1 further minute to the Senator from Maine.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The Senator from Maine is recognized for an additional minute.

Mr. MUSKIE. Mr. President, I have one other concern. I have the concern that the President may have an unstated reason for vetoing the bill, and that would be that he would want a more complete relaxation of the environmental laws than the bill provides. I refer to a story in the Washington Post under the date of March 5. The article is entitled "Ecology Act Waiver Splits White House." The article is written by George C. Wilson. The first paragraph of the article reads as follows:

> A split has developed within the Nixon administration over a propsal to let the federal government approve a wide range of energy projects without explaining how they would affect the environment.

Mr. President, I ask unanimous consent that the article from which I have read and a similar article from the Wall Street Journal, also under date of March 5, 1974, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

ECOLOGY ACT WAIVER SPLITS WHITE HOUSE

(By George C. Wilson)

A split has developed within the Nixon administration over a proposal to let the federal government approve a wide range of energy projects without explaining how they would affect the environment.

The idea was advanced at a White House meeting Wednesday night by Richard M.

Fairbanks, an associate director of President Nixon's Domestic Council, in the form of suggested changes in the National Environmental Policy Act.

That act, called NEPA, is the one environmental groups have used to challenge a number of projects in the past—including the Alaska pipeline.

Administrator Russell E. Train of the Environmental Protection Agency, according to informed sources, told Fairbanks and others at the White House meeting that waiving the NEPA provisions was a bad idea.

Train, both as EPA administrator and former chairman of Mr. Nixon's Council on Environmental Quality, has argued that environmental opposition has been unfairly blamed for holding up power projects more often caused by engineering difficulties and other management problems.

At the Wednesday meeting, Train asked whether the President's Council on Environmental Quality had been consulted on the proposal to waive the National Environmental Policy Act on certain energy projects and thus deny outside groups the right to sue on grounds environmental impact statements were not filed or were inadequate.

The White House officials replied that the council had not been consulted, according to informed sources, and the meeting adjourned with the understanding that the council's views would be sought before the proposal went further.

Fairbanks left the impression with at least one official at the meeting that President Nixon himself wanted to minimize the chance of court challenges to energy-producing projects by narrowing the application of the environmental act.

But Fairbanks himself said last night that "we're a long way" from making a formal recommendation and are instead "fleshing out" various agency positions on the impact of the National Environmental Policy Act on energy projects.

He added that "we would be remiss" not to do so. He said there is not yet an official White House position on the proposal to waive the act's provisions.

Besides Fairbanks, the White House was represented in the discussion by William E. Simon, the President's energy chief; Frank G. Zarb, an associate director in the Office of Management and Budget, and Glenn Schleede of the Domestic Council staff.

Simon reportedly took a relatively neutral stance on the environmental act proposal at the meeting while OMB and Domestic Council representatives indicated they supported it.

Right now, strip mining on government land in the West and atomic power plants, as well as refineries and other facilities which require federal permits—such as dumping rights from the Army Corps of Engineers—are subject to the National Environmental Policy Act of 1969 since there is federal involvement. Such projects require filing "look-before-you-leap" environmental impact statements.

The Council on Environmental Quality, in a memo to the White House, opposed waiving the impact statement requirement. Russell W. Peterson, chairman of the council, has opposed wide-open approval of energy projects, arguing, "I'm responsible to the next generation." He pushed through the Delaware legislature the bill banning refineries on that state's coast.

Congress last year, in a controversial vote, barred further National Environmental Policy Act challenges to the Alaska pipeline, stating in the bill that the project had met that law's requirement. Backers of that waiver said at the time that this would be a one-time exception—not a precedent for waivers of the act on other projects.

Richard Ayres, a National Resources Defense Council lawyer who argues environmental cases, said last year that the proposed waiver represents "another over-reaction to the energy crisis."

He said since state conventional power plants and other energy facilities off federal property are not covered by the 1969 act, its impact on energy nationwide is reltively small.

"The administration is striking out at anything it sees as standing in the way of energy," Ayres said.

NIXON OFFICIALS APPEAR DIVIDED ON ENERGY PLAN

(By Burt Schorr)

WASHINGTON.—The Nixon administration appears sharply split over a legislative package that the President will likely offer Congress in place of the emergency energy bill he plans to veto this week.

Most details of the package, which will include standby authority for gasoline rationing, are in line with previous statements of Nixon energy officials. The controversy, however, is centered on a much broader revision of the Clean Air Act than originally sought by Mr. Nixon.

One administration official clearly unhappy with the apparent thrust of the coming Clean Air Act proposals is Environmental Protection Agency Administrator Russell Train. Asked to comment on the Clean Air Act changes, which were broached at a White House briefing for about a dozen newsmen, Mr. Train said that he couldn't support many of them. "I've made that pretty damned clear," he said in an interview after the briefing, which he didn't attend.

The EPA chief said his agency has said all along that some Clean Air Act revisions are needed, but he fears the President's package is "going to become a sort of Christmas tree" for suggested amendments that could be "disastrous" for the environmental law.

The rationing proposal would appear to conflict with a Nixon promise to the Young Republicans last week "that we aren't going to have and we shouldn't have" compulsory gasoline rationing. A White House spokesman said the speech "could be interpreted two ways." What the President intended, though, was the idea that the mandatory oil-price rollback required by the emergency energy bill he won't sign would discourage domestic crude production, worsen the oil shortage and make rationing inevitable, the spokesman explained.

The proposed Clean Air Act amendments currently under consideration, as listed by White House staff member Richard Fairbanks, include two previous recommendations: retention of the interim automobile emission-control ceilings, currently due in 1975 models, for an additional two years through 1977; and authorization for oil-fired power plants to convert to coal for relatively long periods to provide an incentive for the necessary capital investment.

The additional recommendations probably will include a request to ease the requirement that heavily polluted metropolitan areas begin transportation controls aimed at limiting use of the automobile. With such authority, the EPA might allow a particularly troubled city like Los Angeles "an indefinite period" beyond the current 1977 deadline to develop public transportation, Mr. Fairbanks said.

Although transportation controls mesh with the administration's desire to reduce auto use for fuel-conservation purposes, even the EPA believes the extent of their use required by the current law is too severe. To make Los Angeles air clean in summer months, for example, could require an 80% reduction in gasoline use—clearly a severe economic blow to a city so dependent on motor vehicles.

The White House also is likely to seek definite legislative backing for tall stacks and favorable meteorological conditions as accepted techniques for dispersing pollutants such as sulphur dioxide.

According to Mr. Fairbanks, the legislative authority is needed even if the limited use of such "intermittent controls" currently allowed by the EPA is to survive a court challenge. As seen by Mr. Train, though, the tentative proposal would be a major setback for EPA policy requiring use of stack scrubbers for control of sulphur emissions—a technology the coal and utility industries bitterly insist is still unproven.

Mr. Train said he's further concerned that the President might propose to give "economic and social" effects of air-pollution control equal standing with the health benefits. Currently, the EPA actually does weigh factors such as loss of jobs and factory closedowns when it writes regulations, but it generally gives more weight to protection of public health.

Yet another proposed amendment said by Mr. Train to be under study is relaxation of the clean air standards themselves. These set the maximum levels for major pollutants such as carbon monoxide and soot and, according to some critics, are unnecessarily strict.

Another measure the President has before him is a proposal to seek broad energy conservation powers, Mr. Fairbanks said. This would give the administration a free hand in ordering steps from reduced use of outdoor lighting to specifying service station hours.

Mr. Nixon intends to veto the emergency energy bill passed by Congress because of a provision that would limit the price of nearly all domestic oil to $5.25 a barrel. Currently, only "old" oil produced at pre-1972 levels is subject to this ceiling price. "New" oil above 1972 levels and oil from "stripper" wells, those extracting less than 10 barrels a day, are exempt. This oil, amounting to about 25% of domestic production, sold as high as $10.25 a barrel in January, the government said.

Mr. MUSKIE. We already know what the administration wanted to do to environmental laws under the guise of the energy emergency. In early November 1973 representatives of the administration submitted an informal text of legislation that was printed for the use of the Senate Interior Committee on November 6, 1973.

A blanket gutting of the Clean Air Act was proposed in section 203, which reads in part:

The President may—

(4) acting through the Administrator of the Environmental Protection Agency, exempt, by order and without the necessity for hearing, any fuel-burning stationary source of air pollutant emissions from any emissions limitation in any regulation promulgated under the Clean Air Act or any State air quality statute or local regulation, which limitation may apply to such source in a manner which restricts the source's ability to use any fuel either allocated to it pursuant to this Act, or approved for use by it in conformity with the purposes of this Act; such exemptions shall be granted for a period not to exceed the duration of the energy emergency or as necessary to comply with section 203(3);

The same section called for exceptions from a Clean Water Act, even though the regulations to be waived had not even been proposed:

The President may—

(5) acting through the Administrator of the Environmental Protection Agency, exempt, by order and without the necessity for hearing, any refinery or other installation producing or finishing any fuel and any elec-

trical generating facilities from any discharge limitations or other requirements in Federal Water Pollution Control Act (33 U.S.C. 1251 et seq), or any State water quality statute, and from any discharge or other limitations in any waste water discharge permit issued by any State or Federal agency pursuant to section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), or any State water quality statute, whenever he determines that such exemption is necessary to assure adequate production of fuels or energy or to effectuate the purposes of this Act; such exemptions shall be granted for a period not to exceed the duration of the energy emergency or as necessary to comply with section 203(c);

(6) enter into appropriate understandings, arrangements, or agreements with concerned domestic interests, foreign states or foreign nationals, or international organizations, to adjust and allocate imports of fossil fuels, or take such other action, and for such time, as he deems necessary, with respect to trade in fossil fuels, in order to achieve the purposes of this Act.

Mr. President, I include the entire administration proposal printed November 6, 1973, at the end of my remarks.

Mr. President, there must be those in the administration who would use this veto as a way to get wider authority to undermine the environmental law. And, for that reason, I urge those of us who are concerned with me in the environment to vote to override the President's veto.

There being no objection, the proposal was ordered to be printed in the RECORD, as follows:

DRAFT OF THE EMERGENCY ENERGY ACT
ADMINISTRATION PROPOSAL

TITLE I—FINDINGS AND PURPOSE

SEC. 101. FINDINGS AND DECLARATIONS.—The Congress hereby finds and declares that:

(1) Adequate energy supplies are essential to the security of the Nation and the maintenance of its defenses at home and abroad.

(2) The availability of clean, reasonably priced supplies of energy are equally critical to the maintenance of the health, safety, and welfare of the American people in insuring adequate supplies of food, shelter, health, education, employment, and emergency services.

(3) As the population increases and the demands for a better living environment increase, the American people will require increasing quantities of clean energy supplies.

(4) Responding to the demands for increasing quantities of clean energy will require more efficient utilization of available energy supplies and both the development of new domestic resources and, at least in the next decade, increased levels of imports of energy supplies from abroad.

(5) Disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and the health and welfare of the American people.

(6) It is necessary that the United States maintain the freedom to pursue a foreign policy independent of and unrestricted by the possible need to obtain supplies of natural resources including fossil fuels and other forms of energy from foreign states.

(7) Potential interruptions of important energy supplies, both in the near term and in the future, will require emergency measures to reduce energy consumption, increase domestic production of energy resources, provide for equitable distribution of available supplies to all Americans, and take appropriate international action to promote sharing of foreign supplies of fuels.

(8) The most effective use and development of domestic resources and imports of energy sources from abroad will require coordination of interstate and foreign commerce related to energy as well as a comprehensive national program which will take into account the diversity of needs, climate, and available fuel resources in different parts of the United States.

(9) The development of a comprehensive energy policy to serve all of the people of the United States necessitates the regulation of intrastate delivery and use of energy resources in order to insure the effective regulation of foreign and interstate commerce in energy service delivery.

SEC. 102. PURPOSES.—The purposes of this Act are to—

(1) Provide the President with such authority as may be needed to meet any emergency deficiency in energy supplies, including emergencies resulting from foreign restrictions on the exportation of energy resources and the limitations of domestic supply and to insure the best use of existing resources consistent with the national security and the requirements of the health, safety, and welfare of the American people.

(2) Insure that measures taken to meet existing emergencies are consistent, as nearly as possible, with existing national commitments to protect and improve the environment in which we live.

(3) Minimize the adverse effects of such shortages or dislocations on the economy and industrial capacity of the Nation, including employment, to preserve the independent sectors of the domestic energy industries.

TITLE II

SEC. 201. DECLARATION OF EMERGENCY.—

(1) If the President determines that there is an actual or threatened shortage of essential supplies of fuel, including fossil fuels of any kind or description, or of energy, including electrical energy supplies which may impair the national security, economic well-being, health, or welfare of the American people, he shall proclaim the existence of an energy emergency, and shall in addition to other authority conferred by law, take such of the following actions as he deems necessary to deal with the actual or threatened shortage.

(2) The declaration of an energy emergency shall, for the purposes of this Act, terminate one year after the date of its proclamation, unless it shall have been terminated earlier by the President. The President may extend the declaration of an energy emergency for additional periods not exceeding one year. Prior to any such extension, the President shall provide notice to the Congress of his intention to proclaim such an extension.

SEC. 202. AUTHORITY.—During any energy emergency proclaimed by the President pursuant to this Act, the President may exercise any authority vested in him on date of enactment of this Act by the Defense Production Act of 1950, as amended, the Economic Stabilization Act of 1970, as amended, and the Export Administration Act of 1969, as amended, and the Export Administration Act of 1970, as amended, to accomplish the purposes of this Act notwithstanding any prior expiration of any of those Acts.

SEC. 203. EMERGENCY FUEL DISTRIBUTION ACTIONS.—In addition to the authority conferred by section 202 of this Act, the President is authorized during any energy emergency to establish priorities of use, allocation systems for wholesale purchasers and rationing systems to end users and, notwithstanding any other provision of State or Federal law. In exercising this authority, the President may—

(1) allocate all supplies of fuels among all producers, refiners, gas plant operators, wholesale marketers, jobbers, suppliers, distributors, terminal operators, or any person, firm, or corporation supplying or purchasing, wholesale or retail, or using any fuel of any derivation, including coal, natural gas, or petroleum of any condition, including crude or refined, or quality, including heating value and chemical content;

(2) require any person, firm, or corporation having in its possession or having contracted for or having the capability to produce any supplies of fuel to distribute or redirect the distribution of such supplies, by such quantity and quality as he may specify, to whatever wholesale or retail purchasers of fuel he may designate on a fair and equitable basis.

(3) order the owner or operator of any fuel-burning installation having the capability, as determined under regulations prescribed by the President and after consultation with the Federal Power Commission with respect to matters under its jurisdiction, to convert or preclude from converting from the use of one fuel to the use of another or alternative fuel and to effectuate such conversion; any installation so converted or precluded from conversion will be permitted to continue to use such fuel for at least one year;

(4) acting through the Administrator of the Environmental Protection Agency, exempt, by order and without the necessity for hearing, any fuel-burning stationary source of air pollutant emissions from any emissions limitation in any regulation promulgated under the Clean Air Act or any State air quality statute or local regulation, which limitation may apply to such source in a manner which restricts the source's ability to use any fuel either allocated to it pursuant to this Act, or approved for use by it in conformity with the purposes of this Act; such exemptions shall be granted for a period not to exceed the duration of the energy emergency or as necessary to comply with section 203(3);

(5) acting through the Administrator of the Environmental Protection Agency, exempt, by order and without the necessity for hearing, any refinery or other installation producing or finishing any fuel and any electrical generating facilities from any discharge limitations or other requirements in any regulations adopted pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or any State water quality statute, and from any discharge or other limitations in any waste water discharge permit issued by any State or Federal agency pursuant to section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), or any State water quality statute, whenever he determines that such exemption is necessary to assure adequate production of fuels or energy or to effectuate the purposes of this Act; such exemptions shall be granted for a period not to exceed the duration of the energy emergency or as necessary to comply with section 203(c);

(6) enter into appropriate understandings, arrangements, or agreements with concerned domestic interests, foreign states or foreign nationals, or international organizations, to adjust and allocate imports of fossil fuels, or take such other action, and for such time, as he deems necessary, with respect to trade in fossil fuels, in order to achieve the purposes of this Act.

SEC. 204. EMERGENCY ACTIONS TO REDUCE ENERGY CONSUMPTION.—

(1) During an energy emergency, the President is authorized to impose emergency restrictions on public or private activities which involve or result in the use of fuel or energy resources which may include, but are not limited to: transportation control plans; restrictions against the use of fuel or energy for decorative lighting, outdoor advertising, recreational activities or other nonessential uses of energy; limitations on operating hours of commercial establish-

ments and public services, such as schools; temperature restrictions in office and public buildings, including wholesale and retail business establishments, and other structures; and a requirement that the States adopt restrictions on speed limits.

(2) The President may initiate and carry out voluntary energy conservation programs such as public education programs and voluntary reductions in energy use.

(3) To encourage the use of funds authorized by the Federal-Aid Highway Act of 1973 for mass transit capital improvements, the Federal matching share ceiling shall be increased to an amount not to exceed 80 per centum on nonhighway public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock for any mode of mass transit, or both, when such projects are funded pursuant to section 142 of title 23, United States Code, and to further insure the equitable use of such funds, section 164(a) and section 165(b) of the Federal-Aid Highway Act of 1973 are hereby repealed.

(4) Energy control fees: In order to deter consumption of energy resources or encourage the use of alternate fuels, the President may impose fees on energy consumption, at either the wholesale or retail level, at rates not to exceed —— per centum of a representative market value of the item involved.

SEC. 205. EMERGENCY ACTIONS TO INCREASE ENERGY SUPPLIES.—During an emergency the President is authorized to—

(1)(a) Require production of the developed oil and gas resources from any national petroleum reserves, including the naval petroleum reserves, at the maximum rate which could be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such production is attributable to, and shall meet the needs of production for "national defense purposes", as used in section 7422, title 10, United States Code, as amended, and related sections. Production shall be required under this section only if the energy emergency requires such production to satisfy national security requirements, as determined by the President.

(b) Require expeditious exploration and further development of these reserves to determine the amount of oil and gas reserves located thereon; and

(2) Regulate the conservation and production of crude oil and natural gas. Those regulations shall take precedence over State regulations or crude oil and natural gas which are inconsistent with the regulations of the President.

SEC. 206. RELATION TO ENVIRONMENTAL REQUIREMENTS.—(1) No action taken under this Act shall, for a period of one year after the initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). However, prior to taking any action if practicable or in any event within sixty days after taking or initiating any action that has potentially significant impact on the environment, an environmental evaluation, with analysis equivalent to that required under section 102(2)(c) of the National Environmental Policy Act to the extent practicable within the time constraints, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public: *Provided, however,* That such an environmental evaluation shall not be required where the action in question has been preceded by preparation and issuance of an environmental impact statement under section 102(2)(c) of the National Environmental Policy Act. If any such action is to be continued beyond one year from the date of its initiation, the requirements of the National Environmental Policy Act shall apply in full to any such action to wihch they would otherwise apply.

TITLE III—RESPONSIBILITIES OF FEDERAL REGULATORY AGENCIES

SEC. 301. It is the sense of Congress that the public interest requires that governmental actions relating to energy control and transportation policies be coordinated with a comprehensive national energy policy that will insure the development and conservation of existing energy resources to meet the energy needs of the Nation in the future. Consistent with their existing statutory responsibilities, executive agencies as defined in section 105 of title 5, United States Code, shall take into account the effect of their proposed actions on the deevlopment and conservation of foreign and domestic energy resources of the United States, and shall take such emergency action as may be necessary to develop and conserve energy during an energy emergency declared by the President.

SEC. 302. During an energy emergency the designated regulatory agencies shall have the following emergency authorities:

(1) The Federal Power Commission may, without notice or hearing, suspend for the duration of such emergency, the applicability of sections 4 and 7 of the Natural Gas Act, as amended, to sales to pipelines which sales would, but for such suspension, otherwise be subject to the provisions of such sections. In order to protect the interests of consumers, the Federal Power Commission is authorized, for the duration of the energy emergency, to monitor the wellhead prices of such natural gas sales under contracts subject to these provisions, and, if necessary establish ceilings as to future rates or charges for such sales. In determining whether to establish such ceilings and in setting their level, that Commission shall take the following factors into account:

(A) the current and projected price of other fuels at the point of utilization, adjusted to reflect a comparable heating value;

(B) the premium nature of natural gas and its environmental superiority over many other fuels;

(C) current and projected prices for the importation of liquefied natural gas and the manufacture of synthetic gaseous fuels; and

(D) the adequacy of these prices to provide necessary incentive for exploration and production of domestic reserves of natural gas and the efficient end-use of such supplies.

(2) In any proceeding under the Atomic Energy Act of 1954, as amended, for which a hearing is required to grant or amend any operating license for a nuclear power reactor, the Commission may issue a temporary operating license under the authority of this Act in advance of the conduct of such hearing: *Provided, however,* That in all other respects the requirements of that Act including, but not limited to, matters of public health and safety, shall be met. No such temporary operating license may be issued for a period in excess of eighteen months.

(3) The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission shall have, for the duration of any national emergency, in addition to their existing powers the authority to review and adjust a carriers operating authority in order to conserve fuel. This authority includes but is not limited to adjusting the level of operations, altering points served, shortening distance traveled, and reviewing or adjusting rate schedules accordingly. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law, after summary hearings under procedures prescribed by the regulatory agency but any person adversely affected by an action shall be entitled to a full hearing, as prescribed by law, if petition is filed with the agency within ——— days. Consistent with the purposes of this Act, the Interstate Commerce Commission may enlarge, modify, or remove the various categories of exempt carriage under the Interstate Commerce Act.

(4) All agencies under subsection 302 of this title shall report to the Congress within ninety days of the proclamation of an energy emergency by the President the actions taken by them pursuant to this title. They shall submit additional reports every ninety days thereafter for the duration of the emergency.

TITLE IV—GENERAL PROVISIONS

SEC. 401. The President is authorized to delegate the responsibility vested in him by this Act (other than the authority to proclaim energy emergencies) to any officer or agency of the Federal Government or any State or local government.

SEC. 402. PENALTIES.—Any person who—

(a) Willfully violates any order or regulation issued pursuant to this Act shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine not to exceed $——— for each violation.

(b) Violates any order or regulation issued pursuant to this Act shall be subject to a civil penalty of not more than $——— for each day he is in violation of this Act.

SEC.403. INJUNCTIVE RELIEF.—The United States district courts for the districts in which a violation of this Act or regulations issued pursuant thereto occur, or are about to occur, shall have jurisdiction to issue a temporary restraining order, preliminary or permanent injunction to prevent such violation. Such injunction may be issued upon application of the Attorney General in compliance with the Federal Rules of Civil Procedure.

SEC. 404. JURISDICTION OF STATE COURTS.—Violations of State orders or regulations issued pursuant to the requirements of this Act shall be punishable upon conviction in appropriate courts of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or territories. Such courts shall have authority to impose civil penalties or grant injunctive or other relief, consistent with the jurisdiction, with respect to actions which are taken or threatened to be taken in violation of State orders or regulations issued pursuant to the requirements of this Act.

SEC. 405. AUTHORIZATIONS.—There are hereby authorized to be appropriated such funds as are necessary to carry out the provisions of this Act, and during an energy emergency, such funds may be expended without regard to fiscal year limitations.

SEC. 406. RELATION TO OTHER LEGISLATION.—Except as expressly provided in this Act, nothing in this Act shall be deemed to limit or restrict any authority conferred by any other Act.

SEC. 407. ADMINISTRATIVE PROVISIONS.—Sections 205, 206, 207, 211(a), 212(a), 212(e), 212(f), 212(g), and 213 of the Economic Stabilization Act of 1970 (as in effect on the date of enactment of this Act), shall apply to the administration of any regulations promulgated under this Act, and to any action taken by the President (or his delegate) under this Act, as if such regulation had been promulgated, such order had been issued, or such action had been taken under the Economic Stabilization Act of 1970; except that the expiration of authority to issue and enforce orders and regulations under section 218 of such Act shall not affect any authority to amend and enforce the regulation or to issue and enforce any order under this Act.

SEC. 408. This Act expires on June 31, 19—.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 4 minutes remaining.

Mr. JACKSON. Mr. President, I yield myself 1 minute in which to take the opportunity to again extend my deep appreciation to the Senator from Maine for the hours, days, weeks, and months he has spent on this bill. He was a mainstay in our efforts throughout the inception of the legislation. I am deeply grateful for his excellent statement. I think that he has stated the case very well.

I also, Mr. President, express my appreciation to the distinguished chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), for his ongoing contributions since the inception of the pending bill that is now before the Senate.

Mr. FANNIN. Mr. President, I yield 3 minutes to the Senator from New York.

Mr. BUCKLEY. Mr. President, 3 weeks ago I spoke on this floor against the adoption of the Energy Emergency Act because of its extremely adverse impact on the consumers of the country. I pointed out that our consumers are having their natural gas supply interrupted, and that they are forced to line up in the longest automobile lines in the country because we are particularly subject to the Arab embargo.

I pointed out that the oil rollback on prices would, at best, save New York 2.5 cents per gallon and remove those incentives required in order to enable us to work our way out of the shortages.

I also pointed out that we had the unanimous testimony of five economists, ignored by the conference committee, who stated that it would be irresponsible to roll back prices unless we wanted to place ourselves in perpetual bondage to the Arab States.

I had hoped that some of our arguments would be reported in the press so that the public might be able to understand better some of the issues involved. Unfortunately, in the next day's New York Times, my comments and the comments of several other Senators were dismissed lightly. I know that the New York Times is never wrong. And to my astonishment, I find that New York is an oil-producing State.

Let me tell the Senate what I have found. New York State has 5,300 wells that in the aggregate are producing 2,700 barrels a day, or an average of half a barrel a day for each well. We are producing about 1 million cubic feet of gas a day.

Then, out of curiosity I decided to find out what happened to oil production and exploration in New York State. I checked in Albany. I found that the price of gas in New York State has risen from 40 cents a thousand cubic-feet to 45 cents. I found also that in September of last year new oil was deregulated prior to May 1973, less than one rig was working per month in New York State. In October 1973, the figure rose to 1.8 rigs. In November it was 5.3 rigs. In February of this year, it was 5.3 rigs.

In New York we have seen an expansion amounting to 400 percent. Reservoirs that had been abandoned two and three decades ago are now being brought back into production and are being used simply because the economics of the situation have been changed.

I submit that if this is the experience of New York State, it is bound to be the experience in the rest of the country. If the price incentive is causing people to risk large sums of money to look for deeper horizons, to bring every last drop of oil out of reservoirs that have long since been abandoned, the interests of consumers of the country are being served.

Mr. President, I will vote to sustain the President's veto.

Mr. President, the farmers of America know about economics, and they want assured supplies of oil. That is why the American Farm Bureau Federation urged the President to veto this legislation. I ask unanimous consent, Mr. President, to print in the RECORD at this point the statement of the American Farm Bureau Federation regarding the Energy Emergency Act.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION REGARDING THE ENERGY EMERGENCY ACT, MARCH 6, 1974

Based on policy Farm Bureau consistently has opposed price controls and rollbacks as a matter of principle. Meeting this week in Chicago, the Board of Directors of the American Farm Bureau Federation affirmed this position and urged the President to veto the Energy Emergency Act, particularly because it contains a provision which would roll back crude oil prices and thus aggravate current shortages. The Board called upon the Congress to sustain the Presidential veto.

WILLIAM J. KUHFUSS,
President.

Mr. FANNIN. Mr. President, I yield 3 minutes to the Senator from Idaho.

Mr. McCLURE. Mr. President, I rise in opposition to the effort to override the President's veto, and I urge Members of the Senate to vote to sustain the President's veto.

Mr. President, we have heard a lot on the floor of the Senate about this measure. We have heard it said that this measure will protect the consumers and get the prices down. As a matter of fact, for more than one reason if we adopt this measure, the price of petroleum products to the consumers of the United States will go up and not down, because it will increase our dependency upon imported products which are highly priced, more so than the domestically produced products that now go into the market.

It is also said that this will create, by some magic alchemy, an independence within our own country. I say this measure will create a greater dependence on imported oil, for the immediate future and for the longer range future.

It has been said that this measure is somehow anti-big business, anti-major oil company. Mr. President, that is an anomaly, because those who speak in favor of this measure say they are in favor of reduced profits to big oil companies, but quietly serve the best interests of the big oil companies because their major profits are derived from imports and not domestic production. So the big oil companies like this measure; it serves their interests and increases their profits. The little independent oil companies of this country are opposed to this measure.

Mr. GRAVEL. Mr. President, will the Senator let me underscore that? Will not the Senator agree that it will result in driving American capital abroad?

Mr. McCLURE. The Senator from Alaska is absolutely correct. It has been said that this measure will save the consumer 5 cents a gallon at the gasoline pump. But I will say that if the price goes back to $5.25 a barrel on old oil and $7.09 on new oil, the customer will save only seven-tenths of 1 cent a gallon, and if the price of all of it were rolled back to $5.25, he would save 1 1/10 cents a gallon at the pump, and not the larger amounts claimed by the proponents of this measure.

If we are concerned about profits in the oil industry, there is a much better way of dealing with the problem than by this clumsy measure, and that is to deal with profits directly. I have submitted a proposal which would accomplish that, a measure which would increase the supply and reduce profits, rather than result in a scarcity.

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. FANNIN. I yield 1 minute to the Senator from Alaska.

Mr. GRAVEL. Mr. President, I just want to underscore what my colleague from Idaho has said very briefly: that this measure will cause inflation, not reduce inflation. It will drive capital abroad, which will create a scarcity here. If we buy more abroad, we will give more control to foreigners, who have essentially caused the inflation we have experienced in the past year. I cannot think of anything more nonsensical, or more inimical to our domestic interests.

One cannot, by edict, turn back the clock. I tried to make that point with my colleague from Washington with respect to real estate values and rentals. But whether it is food or whether it is oil, the principle is the same. For some reason, we think we are going to be able to do it with oil, but I say it would mean disaster to the most fundamental parts of our society.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FANNIN. I yield 2 minutes to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I do not think anything new can be added to the debate. All the issues have been explored in great detail. If I can be helpful at all, the only thing I can do is summarize what we have been talking about.

It ought to be evident to all Americans now that despite our best intentions, we cannot repeal the law of supply and demand. That is manifest from what is happening in Europe. There are no gas lines over there. They have no energy crunch, for obvious reasons. If we want more oil, and I am sure most Americans do, because our economy is geared

to energy, and energy comes almost 80 percent from oil and gas, we have got to have oil and gas. The question then arises, are we going to get it from other parts of the world, from Arab nations, from the Middle East, or do we want to get more of it here? Events in the Middle East have underscored the fact that if we want to have the latitude that Americans demand, and that indeed in the interests of world peace we must have, then I think it is important that we have a greater degree of self-sufficiency now, in being able to supply oil and gas domestically, than we have had in the past.

The issue is as simple as that. This act will not produce a single additional barrel of domestic oil.

The price rollback can result only in continued reliance on those who control most of the world's oil at their own price.

The only solution to a shortage is more supply.

The petroleum industry has already responded to more realistic crude oil prices and higher profits. The economics department of McGraw-Hill publications reports that the petroleum industry plans to invest $7.68 billion in 1974 which is 42 percent higher than last year and double the increase planned last October.

So a vote to override the President's veto would reverse the trend toward the only real solution of our energy problem—development of domestic self-sufficiency.

We can do that very simply by doing what the Senator from Alaska has suggested, and that is rejecting this ill-starred, poorly conceived, economically foolish measure that would have become law had not the President of the United States vetoed it.

Let us do that. Let us reject it, because not too long ago we passed another emergency bill that has now come back to haunt us. And that was the Emergency Petroleum Allocation Act which now must be amended because it was pushed through as a consumer protection bill when in practice it has caused nothing but trouble and longer lines at the gas pump.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired. The Senator from Arizona has 2 minutes remaining.

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. JACKSON. Mr. President, I think it is important for the Members of the Senate to keep in mind that there is something more to the legislation that is pending before this body than the subject of rollback. All I want to say on the subject of rollback of the price is that we are not talking about a free market. We are talking about a cartel market.

Mr. President, we have asked the Arab countries to roll back their prices, we have asked Canada to roll back its prices, and now, if this override fails, we are not going to roll back our prices, but instead we are talking about fixing our prices—and that is what it amounts to—at the Arab price level.

I point out that the bill also provides for the coverage of those who are unemployed by reason of the energy crisis. Let me point out just this one fact: over the ticker, a few minutes ago, the Bureau of Labor Statistics came out with the latest unemployment statistics. They are, as of today, 292,000 people out of work directly as a result of the energy crisis, bringing the total to 2,643,000. This is up 40,000 over last week.

Mr. President, the President dismisses this situation in a rather cynical manner. He dismisses in a cynical manner an opportunity to help the small businessman to obtain long-term loans, and homeowners' long-term loans in order to provide for a more effective means of dealing with energy problems through appropriate insulation programs.

He says nothing about a requirement in the bill here which is crucial: that the oil companies make a full disclosure of their assets and their resources.

We have provisions in here for safeguards on antitrust. We have grants to the States to implement this program. We have provision for the protection of franchise dealers, both branded and nonbranded. We have a provision for control of exports, and we have a provision for conservation and rationing.

This is a comprehensive bill, and I hope the Senate will vote to override the veto measure of the President of the United States.

Mr. FANNIN. I yield my remaining 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, the issue of major oil company profits is probably about the phoniest issue we could bring up in connection with the rollback on the price of domestic crude. Approximately 75 to 80 percent of the domestic exploration in this country is undertaken by independent operators, not by the major oil companies. The major oil companies are the customers of the independents. When you roll back the price of crude, you do not change the profit picture of the major oil companies; what you do is discourage the independents. You discourage marginal production in this country, which amounts to about 12.5 percent of the production in this country. If we fail to sustain the veto of the President of the United States, we will wipe out about 12.5 percent of the oil and gas production in this country.

The Senator talks about unemployment. Mr. President, we will have a lot more unemployment if this undesirable piece of legislation is sustained by this vote and subsequently sustained by the House of Representatives. Make no mistake about that.

Furthermore, we are going to deny ourselves the prospect of drilling for an additional 275 million barrels of oil in this country this year, if this law is allowed to stand.

Further, yes, there is something else in the bill and that is section 108 which prescribes the regulation of maximum efficient production—MERP, as it is called—and that will go into the hands of the Federal Government and out of the hands of competent State authorities and can destroy future sources of oil for this country for years to come.

Mr. HANSEN. Mr. President, on behalf of the Senator from Colorado (Mr. DOMINICK) I ask unanimous consent to have printed in the RECORD an editorial published in the Rocky Mountain News of February 7, 1974.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ROLLING BACK OIL

Congress, which knows a live issue when it sees one, seems hell bent on rolling back the price of some domestic crude oil.

This may be good politics, but it is wretched economics. What is more, it comes at a very bad time.

For the first time in years, U.S. crude oil output has started to climb. The steady decline in domestic production was reversed by one thing: freeing the price of newly discovered crude, which encouraged wildcatting and bringing marginal wells back into production.

So by putting an arbitrary ceiling on "new" crude, Congress may look good to the voters, but in reality it will be acting to discourage output and in the long run cause higher prices and gasoline rationing.

At present about three quarters of domestic crude is classed as "old" (pre-1972 production rate) oil and price-fixed at $5.25 a barrel. A bill moving through Congress with powerful support would roll back new crude to that figure and then, as costs go up, let it rise precisely to $7.09 a barrel.

While our admiration for congressmen is boundless, we still fail to understand how they know to the penny the optimum future price of crude. Nor does Treasury Secretary George P. Shultz understand the logic of their rollback.

To do so, he warned, would be a "fundamental mistake." Consumers "would be spared a few cents a gallon for a few months." But the principal effect would be to dampen investment here "and shift profits from the U.S. abroad," since we would have to import more foreign oil.

Since Shultz is well-known as a free-enterprise economist, we doubt that Congress will pay much attention.

If this country really wanted to become self-sufficient in energy in the least possible time, it would gradually decontrol the price of crude, and it would be pleasantly surprised how fast market forces would get the oil out of the ground.

And if Congress feels the present crisis cannot be allowed to pass without its tinkering with the law, it ought to rejigger those complicated tax clauses that make it more profitable for the industry to explore for oil abroad instead of in this country.

It's quite clear by now that most oil Americans find overseas will be confiscated fairly soon by sheikhs and shahs, used against us for political reasons and offered for sale only at exorbitant prices. The place to solve our oil shortage is at home.

Mr. BELLMON. Mr. President, the Energy Emergency Act with the crude oil price rollback provision is a bad piece of legislation and the President did the right thing by vetoing it. I feel strongly the veto should be sustained for these reasons:

It would further weaken the domestic energy industry at a time when drilling activity is beginning to pick up.

It would create a greater dependence on imports from other countries at higher prices.

It would not relieve the shortage of fuel, because it would not produce a single extra barrel of oil.

It would not produce any significant effect on propane prices, because about

two-thirds of all propane is produced from natural gas.

It would not reduce the price of gasoline more than about 1 cent per gallon, and these savings would soon be wiped out by high-cost imported fuel.

It would be another step toward Government control of private industry.

It would allow the Federal Government to take over conservation functions now carried out by State regulatory agencies.

It would probably be declared unconstitutional, because it would be the first time in history that Congress set a price on one commodity for one industry.

This rollback bill would be a setback for every consumer in the United States.

Mr. STEVENSON. Would the distinguished Senator from Washington yield briefly for some questions on the rollback section of the bill, section 110?

Mr. JACKSON. I would be happy to yield to the Senator.

Mr. STEVENSON. Last weekend I had the opportunity to meet with several independent producers in Illinois who expressed some concern over this section and some confusion over what would happen if the provision were enacted. They thought that as soon as the bill was enacted the price of all oil—even that of new oil—would immediately be rolled back to $5.25 per barrel. Some of these producers thought they might be able to live with a price of $7.09, but not a price of $5.25 for new oil, but they believed that the price would immediately roll back to $5.25 and that there would probably be a delay of several months before various hurdles could be passed and the $7.09 price instituted.

Senator, as a conferee I understood that what this legislation actually envisions is a 30-day freeze after the bill is enacted, in other words, a 30-day period within which the President could act to free various classes of oil from the $5.25 per barrel level up to the $7.09 per barrel level. During that 30-day period, however, prices would remain what they were on the day of enactment, or about $5.25 for old oil and over $10 for the so-called new oil. It would only be after the 30-day period, and unless the President had not acted to raise prices beyond the $5.25 level for certain classes of oil, that the price of all oil would be rolled back to $5.25 per barrel.

Am I correct in my understanding of the provisions of section 110?

Mr. JACKSON. The Senator from Illinois is essentially correct. The only caveat I would add is that if the President chose to act before the expiration of the 30-day period he could set prices for any class of oil at a price over $5.25 and up to $7.09, but not above that price. But essentially we have a 30-day freeze on present prices, and then a rollback, a rollback which would be to $5.25 for all oil—and $5.25 is not even a rollback for old oil—unless the President acted within that time frame to exempt certain classes of oil from the $5.25 price, in which case he could raise those classes up to a maximum of $7.09. The authority to raise the price up to $7.09 is with the President.

Mr. STEVENSON. Thank you. Senator JACKSON, it is also my understanding that the procedural provisions of section 110 would not cause a serious delay. There would be a 10-day period required for comments on any action the President proposes to take, but even that could be waived with the hearing to follow after a price above $5.25 is instituted. And the bill rules out any temporary restraining orders or preliminary injunctions by the courts. The courts could only act by issuing a final order ruling the President's action unlawful because it is based on a lack of substantial evidence. Is my understanding on these points correct?

Mr. JACKSON. The Senator is correct. The President can act as quickly as he deems fit. The procedural mechanisms which are placed in the act are for the protection of the public—the independent producers as well as the consumer—from arbitrary actions by the administration. The independent producer can challenge the President's prices as being too low and, therefore, inequitable if the price is below $7.09.

Mr. STEVENSON. But the proceedings need not drag on months or even weeks?

Mr. JACKSON. How long any proceedings "drag on" depends on the administration. The only period the bill provides is a 10-day period for comments, and even that period can be waived. And once the price is in effect it stays in effect until a court finally determines that it is inequitable.

Mr. STEVENSON. And am I correct in stating that the $7.09 price could apply to all new oil and to oil from stripper wells?

Mr. JACKSON. The Senator is correct.

Mr. STEVENSON. And since the administration was seeking a higher level than $7.09, is it not probable that the administration would move quickly to permit $7.09 for all new oil and oil from stripper wells?

Mr. JACKSON. That would be my expectation.

Mr. STEVENSON. I thank the Senator for that clarification of this legislation. It should be reassuring to independent producers throughout the country, whom we want to aid, as well as to those in Illinois.

Mr. WILLIAMS. Mr. President, I am very disturbed about President Nixon's decision to veto the Emergency Energy Act passed by Congress.

The Washington Post, on March 3, had a provocative editorial about the decision to veto the bill. While I do not concur with all of the Post's conclusions, I think it is worthwhile for Congress to review several of the arguments presented. Particularly important are the issues of how many important features the bill does contain, and the fact that the American consumer should not be in the position of paying exorbitant fuel prices at levels far above true equilibrium.

I strongly agree with the editorial that Congress does have the obligation to override that veto.

I ask unanimous consent that excerpts from the Washington Post editorial in this matter be printed at this place in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

THE VETO AND THE ENERGY BILL

President Nixon is wrong in his decision to veto the Emergency Energy Bill. He is wrong in his purpose and wrong in his reasoning. It is a broad and valuable piece of legislation, addressing a great range of issues that the oil shortage raises. This veto would give somber evidence of the degree to which the President has now removed himself from the concerns of his fellow citizens, and the isolation in which he wraps himself.

To see the price that we are all being asked to pay for Mr. Nixon's veto, it is necessary to look at the other sections of the bill. In addition to the rollback provision, it contains additional unemployment compensation for those who lose their jobs in the shortage. There is protection in this bill for service station operators against arbitrary cancellation of their franchises by the oil companies. There are requirements for the orderly collection of the statistics that the government now notoriously lacks. There are rules to govern an orderly conversion of power plants for coal without the present bypassing, and perhaps violation, of the Clean Air Act. There is the authority for the President to impose gasoline rationing. All of these provisions ought to be law now, but they are all in the bill that the President intends to veto.

The rollback provision is less than perfect. But, with its defects, it serves a purpose that Mr. Nixon evidently does not acknowledge. It sets a certain limit to the heights to which crude oil prices will be permitted to soar. A few numbers are helpful in following the argument. About half of the country's oil supply is under price controls at $5.25 a barrel. About a third is foreign oil, currently selling at a bit over $10 a barrel. The dispute is over the remaining one-sixth of the supply which, being uncontrolled, has leaped up to the world price of $10. The Emergency Energy Bill would roll it back to the controlled price and then, where production costs justified it, authorize Mr. Nixon to let it go up as high as $7.09. Writing numerical price ceilings into law is a bad practice, particularly in a time of rapid inflation. But this fault is mitigated by the temporary nature of the law, which would run only 14 months. To judge whether the rollback is reasonable, remember that the price of all American oil was around $3.40 a barrel one year ago. Seven dollars is a price beyond the wildest dreams of oil men at any time up until last fall. At that price, incidentally, exploration and production go forward at the industry's full capacity. Beyond that figure, higher prices do not increase production incentives enough to justify the cost to the consumer.

Prices are obviously going to keep rising in this country. In the end, they will come to rest when supply equals demand. But the purpose of wise government policy would be to use controls and rationing to get us through the transition without letting the price suddenly shoot up to panic levels that would certainly be much higher than any true equilibrium. In Germany, a country where mass transportation is good and commuting long distances by car is rare, the government can afford to view gasoline as almost a luxury. In this country it is a basic necessity for a very large number of people, by no means all of whom are well to do. The passage to higher prices of scarcer fuel needs to be a gradual affair. If Mr. Nixon vetoes the Emergency Energy Bill, Congress will have a clear responsibility to override that veto.

Mr. BAYH. Mr. President, I shall vote to override the President's unwise and illogical veto of the Energy Emergency Act and urge strongly that my colleagues join me in passing this crucial legislation despite the President's shortsighted action.

This is President Nixon's 42d veto, and it is as unjustified as any of the preceding 41. Once again, the President has vetoed legislation passed overwhelmingly by both the Senate and House of Representatives. Once again we are faced with the necessity of legislating, not by a majority but by two-thirds of the Senate and House.

The veto of the Energy Emergency Act is ironic, since the President and spokesmen for his administration have repeatedly chided the Congress for not moving fast enough on energy legislation. The fact is this important bill would have been enacted before the Christmas recess were it not for stalling tactics supported by the administration, and in January were it not for an initial recommittal of the conference report accomplished with the full support of the administration.

The President offers three reasons for his veto. None are well-taken and, in fact, all fly in the face of the best interests of the American people.

PRICE ROLLBACK

The President opposes section 110 of the bill which would lower crude oil and refined petroleum product prices. He argues that the rollback in prices would reduce the supply of available gasoline by discouraging oil exploration.

This is wrong. The bill permits the President to raise the price of so-called new oil, that is oil produced in excess of early 1973 production, to as much as $7.09 a barrel. This is 35 percent above the basic price of $5.25 a barrel. What the President fails to acknowledge, as he adopts the same arguments made by the oil industry when it lobbied against passage of the bill, is that as late as last fall the oil industry agreed that a price of about $7 a barrel was enough to justify new drilling and production.

We are faced, Mr. President, with a remarkable situation in which the oil industry chooses to raise the minimum acceptable price for new oil production to new and higher levels after every price increase is granted. Such unjustified price increases smack of profiteering and place a totally unreasonable burden on American consumers already reeling under inflation which came close to 9 percent last year.

To gain a better perspective on the $7.09 a barrel price to be allowed on new oil, this is fully twice the average domestic price of crude oil just 1 year ago, and $1.84 a barrel more than the basic price of domestic oil.

Rather than support the price rollback, which would provide desperately needed relief for American consumers, the President offers what he insists on calling a windfall profits tax. But no matter what the President calls his proposal, it really is an excise tax, the burden of which will be carried by consumers as the major oil companies—whose profits were up 50 percent last year—continue to rake in record profits.

Mr. President, the rollback in crude oil and refined petroleum product prices is one of the important provisions of the Energy Emergency Act. It is something that has the understandable support of the American people. Rather than serving to justify a Presidential veto, it provides good cause for us to override that veto.

UNEMPLOYMENT COMPENSATION

The second reason cited by the President for his veto is section 116, the provision for expanded and extended unemployment compensation for workers who lose their jobs due to the energy crisis. Since section 116 follows very closely an amendment I suggested to the distinguished Senator from Washington (Mr. JACKSON), I obviously have a deep concern about this provision.

The President's abrupt dismissal of this section as "arbitrary" and "vague" shows remarkable insensitivity to the tens of thousands of American workers who have already lost their jobs due to the energy crisis. These workers, and their families, are not buoyed by the overly optimistic fundamentally inaccurate statements by high administration spokesmen that the energy crisis will not play a major role in expanding unemployment.

In my own State of Indiana, the energy crisis has already created grave unemployment, as high as 10 percent in Elkhart. This unemployment is not always directly attributable to a specific governmental response to the energy crisis. Sometimes jobs are lost indirectly due to fuel prices and fuel allocations. Or, as is the case in Elkhart where the recreational vehicle industry has experienced major shutdowns, the unemployment results from consumer reluctance to buy a new recreational vehicle, automobile, or other product, because of legitimate uncertainty about the availability of fuel in coming months.

This is why section 116 takes into account all unemployment resulting from the energy crisis. The President's objection to this provision ignores reality as clearly as do his other statements that the energy crisis is over and we will not have a recession. The President would like to wish away our energy crisis and coming recession, but all his wishing will not put food on the table of families, in Indiana and across the country, in which the breadwinners have been thrown out of work.

I have no patience for the callous opposition of the President to the improved unemployment compensation provisions of the Energy Emergency Act. This is a most basic need, for which we can wait no longer, and further argues for a vote to override this veto.

ENERGY CONSERVATION LOANS

The third reason given by the President for his veto is the section which authorizes low interest loans to homeowners and small businessmen to improve insulation. This proposal is designed to meet our energy problem in one of the quickest and most effective ways available.

Even as we explore ways to increase our energy supply, we should be taking the necessary steps to reduce energy demand, and improved insulation will have a major effect in cutting demand.

The President talks about conserving energy, yet he is unwilling to even lend—not give—American homeowners and small businessmen the money needed to conserve significant amounts of energy. All his lip service will not buy a single storm window, and I disagree fully with his argument against the low-interest loan provision of the act.

Mr. President, having addressed myself to the three specific issues raised by the President in his veto message, I would like to summarize other important and desirable provisions of the Energy Emergency Act. All of these provisions, which follow, have been carefully considered in the Senate and House, and by the conferees in several different sessions, and deserve passage despite the President's veto:

Authority to limit the export of coal, petroleum products and petrochemical feedstocks is given to the Administrator of the new Federal Energy Emergency Administration. Also, the Secretary of Commerce would be required to use his authority to limit exports of these vital products if the Administrator deems it necessary to meet the energy emergency. For more than 3 months I have been trying to get the Secretary of Commerce to use his existing authority to limit petrochemical exports. Domestic industry, especially small businesses, has been hurt severely by the shortage of petrochemical feedstocks and the inaction of the Secretary is deplorable. At last, this bill provides a solution to that inaction.

Recognizing that there are limits to which we can balance energy supply and demand by increasing supplies in the short term, the bill gives the administration needed authority to limit energy demand through mandatory conservation methods. Such conservation may be our best hope for avoiding economic disaster due to the energy crisis.

In a further effort to avoid energy waste, the bill instructs the regulatory agencies to revise their regulations to permit fuel savings in interstate commerce.

Since end-use gasoline rationing may become necessary, the bill creates the necessary authority for rationing.

As part of the overall program of energy conservation the bill provides Federal assistance to States and localities in developing carpool programs.

Since the major, integrated oil companies have used the fuel shortage as a tool against gasoline service station operators who do not follow the company line, the bill contains needed protections for the franchise rights of these small businessmen.

The bill has tough, effective antitrust rules to make certain the oil companies do not act improperly in concert in responding to the energy crisis.

Mr. President, I know the President's veto of the Energy Emergency Act has brought glee to the boardrooms of the major, international companies. But it has brought sorrow to American consumers. I hope sincerely that the Congress will override this veto, here in the Senate and in the House of Representatives, and in that way show that we are

far more concerned with the well-being of the average American family than with the earnings of the multinational oil giants.

Mr. HELMS. Mr. President, President Nixon has, as Senators are aware, vetoed the so-called "Emergency Energy Act." I voted against this legislation when final passage was considered by the Senate, and I will vote to sustain a veto. This act would create yet another Federal bureaucracy to manufacture "redtape" and harass the American people—those it presumably would exist to aid, all at a cost borne by the taxpayer and consumer.

Everyone is properly concerned about the energy crisis with its shortages of gasoline, fuel oil, and gas. Many portions of the country have felt the heavy burden of long lines at service stations and an inadequate supply of fuel generally. I am convinced that my State has borne the brunt of this situation as heavily as any.

Our people are justly concerned. Many businesses have been adversely affected. Everyone's daily life has been pervaded by the ever present necessity of searching for small quantities of fuel to meet essential and immediate needs.

Nonetheless, the American people remain unconvinced that our fuel situation is so extreme as to merit the extraordinary remedies that have been mentioned from time to time. According to a recent Gallup poll, 53 percent of Americans oppose gasoline rationing: a clear majority. Reasons advanced in opposition to the establishment of such a rationing program are: first the involvement of bureaucratic "redtape," which it is feared would render the program more of a burden than an advantage; two, the inability of the Government to accurately forecast the fuel needs of the various segments of our society so as to structure the program in an equitable manner; and three, the fear that it would encourage "black marketeering."

Furthermore, Mr. William Simon, Administrator of the Federal Energy Office, recently acknowledged that he basically just does not think that rationing would work.

It is evident that the American people do not want gasoline rationing. It is equally evident that the American people believe the Government to be incapable of establishing a fair and workable rationing program. We are compelled to the conclusion that our citizenry would prefer to trust the free enterprise system to provide for their needs. In this conclusion, I entirely agree.

The American people recall all too well the dismal failures of other governmental attempts to improve upon free enterprise. We all remember that we tried price controls on meat, and the result was an almost immediate shortage of meat. Some have advocated a price rollback. Many, however, see this purported panacea for the idle dream that it is. Only through production and competition in the marketplace can we hope to enjoy a more abundant supply of the goods we need and—in the long run—more equitable prices for the goods we buy. Price controls create negative incentives for production. We cannot afford further interference with the business sector in a time of acute shortage.

I cannot support a gasoline rationing program, and I urge the removal of all price controls from the economy so that the market can return to a normal supply-and-demand situation.

I certainly share the general concern regarding the current fuel shortage, but we must not allow this transitory hardship to bring about a further erosion of our free enterprise system and our traditional American economic structure.

Mr. President, I ask unanimous consent that a news article reciting the results of the latest Gallup poll concerning mandatory gasoline rationing be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD as follows:

THE GALLUP POLL: GAS RATIONING HEAVILY OPPOSED

(By George Gallup)

PRINCETON, N.J.—By the margin of 53 to 37 percent, the American people vote against gas rationing, with current views virtually the same as those recorded in an early January survey.

The chief reason for opposing such a law is the belief on the part of some that the fuel shortage is not serious enough to warrant the rationing of gasoline. Others worry that rationing would involve too much red tape, or that such a law would not work in an equitable manner. Still others fear that rationing might encourage black marketeering.

Those in favor of a gas-rationing law maintain that this would be the only fair way of distributing gas. Others feel that such a law would eliminate the present long lines of motorists waiting for gas and would bring order out of chaos. Still others express the hope that rationing might reduce the price of gas.

Following is the question asked:

"Do you favor or oppose a law requiring gas rationing?"

Here are the latest results:

FEBRUARY

	Percent
Favor	37
Oppose	53
No opinion	10

By way of comparison, here are earlier findings based on the January survey:

JANUARY

	Percent
Favor	34
Oppose	56
No opinion	10

A standby gas rationing plan was announced by the Federal Energy Office earlier this year. Under that plan, an average of 32 to 35 gallons per month would be allowed for each driver 18 years old or older—the distribution formula depending on gas supplies, where the driver lives, the availability of public transportation, and other factors. Each licensed driver 18 or over, would be mailed a card that can be used to pick up coupons. A charge of $1 for each monthly packet of coupons would be imposed, to help cover the estimated $1.4 billion annual cost of running the rationing system.

Although some energy and economic advisers feel that gas rationing is the best quick solution, federal energy chief William E. Simon does not hold this view.

Here are findings, region by region, based on the question: "What do you think is the most important problem facing this country today?"

EAST

	Percent
Energy crisis/fuel shortage	46
High cost of living	25
Dissatisfaction with/lack of trust in government	16
Corruption in government/Watergate	7
Unemployment	4
All others	24
No opinion	3
	125*

MIDWEST

	Percent
Energy crisis/fuel shortage	47
High cost of living	23
Dissatisfaction with/lack of trust in government	17
Corruption in government/Watergate	8
Moral decline/lack of religion	5
All others	23
No opinion	2
	125*

SOUTH

	Percent
Energy crisis/fuel shortage	49
High cost of living	28
Dissatisfaction with/lack of trust in government	11
Corruption in government/Watergate	5
Unemployment	5
All others	27
No opinion	5
	130*

WEST

	Percent
Energy crisis/fuel shortage	38
High cost of living	24
Dissatisfaction with/lack of trust in government	19
Unemployment	10
Corruption in government/Watergate	8
All others	30
No opinion	3
	132*

* Totals add to more than 100 percent since some persons named more than one problem.

Mr. CRANSTON. Mr. President, I rise to express my deep regret that President Nixon has vetoed the Energy Emergency Act (S. 2589) and to urge my colleagues to vote today to override this unfortunate veto.

In his veto message, President Nixon stated that section 110 of S. 2589, which would rollback the price of domestically produced crude oil would "set domestic crude oil prices at such low levels that the oil industry would be unable to sustain its present production of petroleum products, including gasoline."

Mr. President, this statement is difficult to believe. The rollback provision would simply require that all crude oil produced in the United States—with the exception of stripper wells—would be subject to the current controlled price level of $5.25 a barrel. Currently, 75 percent of all domestic crude oil is subject to this price ceiling. The rollback would affect less than 25 percent of the domestic crude oil—that which is now averaging the world price of $10 a barrel. But to be sure that there is ample incentive to maximize production from current wells and to explore for new oil, the President would have the authority

under the rollback provision to raise the price of "new" oil to $7.09 a barrel if he found that such price increases were necessary in order to stimulate new production.

This veto is based to a large extent on the feeble and erroneous argument that we must have uncontrolled, inflation-feeding fuel prices in order to stimulate new production. Even the oil industry admits that $10 a barrel oil is not economically justifiable. In December 1973, the National Petroleum Council said:

For maximum attainable self-sufficiency by 1980 a price of $4.05 would give a 10 percent rate of return, while a price of $5.74 would give a 20 percent return.

We should not forget, too, that in the past 12 months, crude oil prices have doubled. In January of 1973, the average price per barrel was $3.40. In January of 1974, that average had jumped to $6.75. But even with this supposed incentive, crude oil production during the same period increased by a mere 34,000 barrels—from 10,859,000 barrels a day to 10,893,000 barrels a day.

The facts simply do not support President Nixon's contention that we must allow the price of crude oil to skyrocket in order to encourage the oil companies to produce more oil.

But the President has vetoed far more than a rollback of fuel prices.

By once again acting to protect the interests of the oil companies, President Nixon has sacrificed the interests of the American people.

He has vetoed unemployment assistance benefits of $500 million that would be available as grants-in-aid to the States to provide at least 6 months additional unemployment compensation to individuals left jobless as a result of energy shortages.

He has vetoed new legal rights and judicial remedies for service station owners to protect them from arbitrary and unreasonable actions by large oil companies.

He has vetoed a provision which would have, for the first time, required the mandatory disclosure by the oil companies of reliable data and information on reserves, production levels, refinery runs, stock levels, imports, prices, and other information essential to understanding the scope of the energy crisis.

He has vetoed stringent antitrust safeguards designed to insure that the agreements among the oil companies to deal with shortages do not result in permanent violations of the antitrust laws.

He has vetoed authority for a wide range of actions designed to conserve scarce energy resources, particularly authority to ration gasoline and to require regular operating hours for gas stations.

And he has vetoed authority for the Department of Housing and Urban Development and the Small Business Administration to provide low-interest loan assistance to homeowners and small businesses to finance insulation, storm windows, and improved heating units. I am particularly disappointed that this has been vetoed, because in his message, President Nixon claimed:

The actual energy savings produced by these vast expenditures would not justify such an enormous loan program.

I find this a difficult pill to swallow. In other messages, President Nixon has told the American people that they must conserve energy, that they must turn their thermostats down and turn off lights and make other sacrifices in order to save fuel. His action today amounts to another message that the people must bear the brunt of rising fuel costs, with no hope of assistance in the form of loans from the Federal Government.

And it is incorrect to imply that these conservation measures will have an insignificant impact on our overall energy budget. Currently, the residential sector uses about 20 percent of all the energy consumed, with 70 percent of this amount being consumed by only two household uses—space heating and water heating. The Rand Corp. of Santa Monica, Calif., has done considerable work in estimating the potential energy savings from measures to eliminate energy waste. I ask unanimous consent that two tables prepared by Rand be inserted in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1—SHORT-TERM ENERGY CONSERVATION POTENTIAL, RESIDENTIAL SECTOR—CALIFORNIA

[Conservation measure and estimated maximum savings—equivalent barrels of oil per day]

1. Reduce thermostat settings—space heating, 80,000 to 104,000 and water heating, 12,000 to 14,000.

2. Weatherstrip households, 35,000 to 58,000.

3. Keeping heating plant maintained, 13,000 to 20,000.

4. Turn out unneeded lights, use lower wattage light bulbs, 8,000 to 11,000.

TABLE 2—ADDITIONAL SAVINGS WITHIN 18–24 MONTHS CALIFORNIA *

[Sector, Conservation measures, and estimated maximum savings—equivalent barrels per day]

Residential—Insulate water heaters and hot water lines, 14,000 to 18,000; insulate existing homes and small commercial, 22,000 to 36,000; convert pilot lights to electric ignition systems, 24,000 to 45,000; and replace incandescent with florescent lighting, 5,000 to 6,000.

Industry—Increase thermal management programs, 67,000 to 134,000.

Government—Replace incandescent with "discharge" street lighting, 2,000 to 3,000.

Total additional potential savings *, 98,000 to 170,000.

Total potential savings * (including short-term savings) *, 440,000 to 710,000.

Mr. CRANSTON. The first table illustrates the immediate savings in the residential sector of California that can be achieved by simple conservation measures. The second table illustrates savings that can be achieved in California with 18 to 24 months, including the savings from adding insulation to existing homes and small commercial establishments. These are not insignificant savings, Mr. President, and I protest President Nixon's insensitivity to these homeowners and small businesses that want to make energy-conserving improvements.

The real message of this veto, Mr. President, is that the President of the United States intends to place the primary burden of the energy crisis on the shoulders of the individual consumers. He is saying to the American people that they must swallow rhetoric instead of action and pay higher and higher fuel costs while the oil companies continue to line their pockets with record profits. I urge the Senate to override this veto.

The PRESIDING OFFICER (Mr. WILLIAM C. SCOTT). The hour of 5 o'clock having arrived, and all time having expired, the question is, Shall the bill (S. 2589) pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and nays are mandatory under the Constitution. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The yeas and nays resulted—yeas 58, nays 40, as follows:

[No. 58 Leg.]

YEAS—58

Allen	Hart	Moss
Baker	Hartke	Muskie
Bayh	Haskell	Nelson
Bible	Hathaway	Nunn
Biden	Hollings	Packwood
Brooke	Huddleston	Pastore
Burdick	Hughes	Pell
Byrd, Harry F., Jr.	Humphrey	Proxmire
Byrd, Robert C.	Inouye	Randolph
Case	Jackson	Ribicoff
Chiles	Javits	Schweiker
Church	Kennedy	Stafford
Clark	Magnuson	Stevens
Cook	Mansfield	Stevenson
Cranston	Mathias	Symington
Eagleton	McGovern	Talmadge
Ervin	McIntyre	Tunney
Fulbright	Metcalf	Williams
Griffin	Metzenbaum	Young
	Mondale	

NAYS—40

Abourezk	Eastland	McGee
Aiken	Fannin	Montoya
Bartlett	Fong	Pearson
Beall	Goldwater	Percy
Bellmon	Gravel	Roth
Bennett	Gurney	Scott, Hugh
Bentsen	Hansen	Scott, William L.
Brock	Hatfield	Sparkman
Buckley	Helms	Stennis
Cotton	Hruska	Taft
Curtis	Johnston	Thurmond
Dole	Long	Tower
Domenici	McClellan	
Dominick	McClure	

NOT VOTING—2

Cannon	Weicker

The PRESIDING OFFICER (Mr. METZENBAUM). Two-thirds of the Senators present and voting not having voted in the affirmative, the bill, on reconsideration, fails of passage.

FAIR LABOR STANDARDS AMENDMENTS OF 1974

Mr. MANSFIELD. Mr. President, what is the pending business?

* Corrected for non-additive effects.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2747) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the Act, and for other purposes.

INVALIDATION OF CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the cloture motion which was presented on yesterday be invalidated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time consumed by the distinguished Senator from Nebraska not be charged against either side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PLIGHT OF CATTLE PRODUCERS AND CATTLE FEEDERS

Mr. CURTIS. Mr. President, the cattle producers and the cattle feeders are facing the most severe crisis probably in this century. Every action possible must be taken immediately to reverse the situation.

It was but a few days ago that a country banker informed me that one of his feeders was going to have to sell his land to take care of the losses from his cattle feeding operation. Many feeders are losing from $150 to $200 per head. This disaster is striking large operators and small operators.

A few days ago, I received a telephone call from one Nebraskan who with his two sons was operating a feeding business. They had 2,000 head of cattle. In the week prior to his telephone call, the cattle market had gone down some $100 per head. This is a $200,000 loss.

Mr. President, I could go on with accounts related to me by telephone and by letters.

I am happy to announce that the chairman of the Committee on Agriculture and Forestry of the Senate has agreed to call a hearing. This hearing will be next week. It will go into all of the facets of this tragic situation.

It was brought to light recently that in one of the last weeks of February the retail price on beef went up 6 cents per pound and in that very same week the price for carcass beef paid by the retailer went down 15 cents per pound.

Mr. President, the answer to this situation may be complex. Every avenue must be pursued. The Government is not without blame for this situation.

The Government outlawed the use of Diethylstilbestrol commonly called DES, which was used in the cattle feeding process. This increased the cost for cattle feeders by a sizable percentage.

The Cost of Living Council wrongfully and stubbornly placed a ceiling on beef. The Council stubbornly kept the ceiling on for months after every person in Government who is knowledgeable in agricultural matters advised its removal. The dislocations caused by beef ceilings have not disappeared and they have cost countless farmers and feeders thousands and thousands of dollars.

Price ceilings and standby authority for price ceilings disrupted the market and worked to the disadvantage of both the producers and consumers. The Economic Stabilization Act ought to be repealed.

The fuel shortage has added to the problems for the cattle producers and feeders. Many packing plants were unable to get sufficient truck transportation to transport meat from the plants to meet market demand. Some meat packing plants closed entirely. Congress made a mistake in enacting a speed law of 55 miles per hour. There is evidence that in the overall it is not saving fuel. In many places, it is openly violated. It ought to be repealed.

Mr. President, throughout this period of selective price ceilings and turmoil, it has given some retailers an opportunity for unfair practices. Earlier I mentioned the fact that in a week when the cost of carcass beef went down 15 cents, the retail price went up 6 cents. It would not be right to condemn all retailers and I do not. I do say the matter must be looked into.

We do know that some retail grocery chains have been dishonest and untruthful. Not many months ago the Giant Food chain, which operates here in Washington, lied to the public in full page newspaper ads. The public was told that the increase in the price of beef at that time was caused by the fact that there were no ceiling prices on livestock. This statement of the Giant Food chain was totally false. At that very time they were buying carcass beef cheaper than they were when ceilings were originally imposed in phase I.

The Giant Food stores advised customers not to buy beef. Actions of this kind have misled the public. They have lessened the demand for the best beef available anywhere in the world. They have poisoned the minds of consumers and have created hostility toward those who produce the food that we eat.

Mr. President, I ask unanimous consent that my statement made before the Livestock and Grains Subcommittee of the House Committee on Agriculture, Tuesday, April 11, 1972, in which I documented the dishonesty of the Giant Food stores be made a part of this RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEFORE THE LIVESTOCK AND GRAINS SUBCOMMITTEE OF THE HOUSE COMMITTEE ON AGRICULTURE, TUESDAY, APRIL 11, 1972, ON THE SUBJECT OF MEAT PRICES

Mr. Chairman, I am grateful to you and to the distinguished members of your Subcommittee for permitting me to testify in these important hearings. I will be brief and to the point.

The issue before you is the deliberate misrepresentation of vital consumer information to the buying public by a consumer affairs specialist for a chain food corporation through the medium of mass advertising, and the adverse effects that such misrepresentation can produce on a segment of the economy.

I have with me a copy of the advertisement published March 22, 1972, in the Washington Post. The same advertisement was printed in the March 21, 1972, Washington Evening Star.

Across the top of the page in bold capital letters are the words: "You Have The Right to Be Informed About Meat Prices!"

Underneath that heading is this message: (Quote) "Meat prices are high and from all predictions will remain high. Beef is near the highest level since the end of the Korean War. Why are they so high?" (End Quote)

Then comes this message in bold capital letters: (Quote) "It Begins At The Source." (End Quote)

And this further explanation: (Quote) "Livestock prices were not and are not now controlled under the present economic program. Less meat is reaching the market. Prices from our suppliers have skyrocketed. Because of all these reasons, you will find higher prices on almost all fresh meats." (End Quote)

Then there is another message in bold type, saying: (Quote) "We consumers can help bring prices down. Buy less meat. Use other forms of protein. Buy Something Else." (Unquote)

Now, Mr. Chairman and distinguished Subcommittee members, let's analyze what actually had been occurring on the wholesale market where Giant Food, Inc., was buying its beef. Let's take a look at what the chain stores and all the other big buyers of beef were paying by the carcass.

I have here the "yellow sheets" which are called the "Bible" of the livestock buying business. These are reports of the National Provisioner Daily Market Service. I have these reports for the month of March this year and for the month of August when the wage-price freeze went into effect across the nation last year.

Mr. Joseph B. Danzansky, the president of Giant Food, Inc., stated publicly the other day that his firm buys "top choice" beef. The company also buys some prime beef.

On August 13, 1971, the last market day before the August 15 wage-price freeze was invoked by President Nixon, the wholesale or carcass price of top choice beef was 54 cents a pound f.o.b. Midwest river points. The price of prime beef carcasses the same day also was 54 cents a pound.

On March 21, the day that Giant Food, Inc., ran its first advertisement attacking fresh meat prices and advising consumers to "buy something else," the wholesale price of top choice beef was 53 cents a pound and the wholesale price of prime beef was 53½ cents a pound. The next day, when the advertisement appeared the second time, top choice carcasses had dropped to 52½ cents and prime carcasses to 53 cents a pound.

And Mrs. Esther Peterson, the consumer adviser for Giant Food, Inc., was telling the public in full-page ads that (Quote) "prices from our suppliers have skyrocketed" (Unquote) because livestock prices are not subject to the current economic controls.

If that advice wasn't misleading, it was downright deceitful.

The "yellow sheets" provide us with some additional pertinent facts.

They show that on 16 out of 22 market days last August, the wholesale prices for prime and top choice beef were higher than when Giant Food proclaimed in its March 21–22 advertising that (Quote) "prices from our suppliers have skyrocketed" because of non-controls.

The "yellow sheets" also show that within seven market days after the August 15 freeze, beef wholesale prices began a slight downward trend despite the fact that livestock prices were exempt from economic controls.

And, more interestingly, they show that the day Giant Food, Inc., began its anti-meat crusade was in fact the 18th day of a continuous downward trend in beef wholesale prices, including prime as well as top choice carcasses.

Think of it! Wholesale beef prices had been going down for 18 days straight in March when Mrs. Peterson proclaimed in Giant Food advertising that (Quote) "Meat prices are high and from all predictions will remain high." (Unquote) On their face, the advertisements were untruthful.

Assistant Secretary of Agriculture Dick Lyng, who has consumer affairs as one of his principal responsibilities, spotted the discrepancies and contacted the president of Giant Food. Mr. Lyng met with Mr. Danzansky and Mrs. Peterson, and confronted them with market facts similar to those which I have presented here. I talked with Mr. Lyng and re-verified this information just yesterday.

The president of Giant Food subsequently issued a press release, dated March 23, which I did not read in any newspaper. In the press release, a copy of which I now have in my possession, Mr. Danzansky said: (Quote) "The price of meat is a complicated question, and it is neither fair nor accurate to point fingers at any segment of our economy as the culprits. No single element in our economy, be it farmers, processors, labor, retailers, consumers or government, is solely to blame for high meat prices, and no single element can bring those prices down by itself."

Why, then, did this big Eastern chain store compound and perpetuate a wrong by continuing to publish deceitful advertising on the subject?

I have here an April 6 advertisement proclaiming that "Beef Prices Are Down!" and declaring: (Quote) "Aren't You Glad We Started It All . . . We Are!" (Unquote)

Yes, sir; wholesale beef prices had been going down for 18 days straight when Mrs. Peterson and Mr. Danzansky decided to tell the consumers that prices had risen out of reach; and now Mrs. Peterson and Mr. Danzansky are answering curtain calls, one after another, bowing before their audience of cheering consumers and patting themselves on the back, taking credit for forcing reductions in meat prices when such reductions already were a well-established trend.

And on April 7 there was another full-page advertisement, this one reprinting an entire editorial from the Washington Post, which editorial in turn had been based on the distorted and untrue information contained in Giant Food's March 21–22 ads. The editorial praised Giant Food for advising us all that meat costs too much, and for suggesting that people "buy less meat . . . buy something else."

It is an interesting and yet a tragic game of flim-flammery. On their face, the advertising statements and claims are false and fraudulent, in my judgment. The Federal Trade Commission should investigate and make a test case out of it. I am glad the Price Commission is looking into the possibility of price manipulations in violation of law.

I have here a page out of the last annual report of Giant Food, Inc., to its shareholders. This report seems rather clearly to indicate that rising costs at the retail level are more responsible for the high cost of meat than any evidence of cost increases at the livestock producer or wholesaler levels. The report states, and I quote:

"Financially, Giant achieved record sales in fiscal 1971 of $476.9 million. Costs, however, continued to rise sharply as a result of inflation as evidenced by a labor contract settlement which boosted wages 13 per cent. As anticipated, net earnings for the quarter in which we went discount and settled the labor contract showed a deficit which adversely affected earnings for the year. . . . Profits again began a steady upturn during the third quarter and continued through the balance of the fiscal year. At year's end we had matched the earnings of the last 16 weeks of the previous fiscal year. Net earnings for the year were $4.2 million." (Unquote)

Then, looking ahead to the current year, the report states: (Quote) "In order to offset the cost of the wage settlement, maintain the lower profit margins inherent to a discount policy, and in anticipation of an additional $6 million wage increase during fiscal 1972, we made the difficult decision to discontinue our successful Top Value trading stamp promotion. . . ." (End quote).

Where does all this leave the farmers and ranchers, as well as the meat wholesalers?

They are already operating on such small margins that they can't afford to lose the millions of dollars that the type of false and fraudulent advertising under study here today may ultimately cost them.

Not only are cattle prices at stake. Live hog prices, which were in a slump at the time of the freeze last August, had made a pretty good recovery by the third week in March this year. Now they have been driven downward by the anti-meat crusade until today the producer is lucky if he can break even.

It is an economic fact that producers can't cover their added costs by simply increasing their markup. They don't even have a markup as the retailer knows it. They have to take what the market will give them within a relatively short time period in which they are forced to sell their products. They are more subject to victimization in the market than are the buyers and sellers of securities on the stock exchange.

Perhaps we at the legislative level should consider giving the Department of Agriculture some added authority and responsibility for protecting the producer in his marketplace. Perhaps this protection should guard the producer against price manipulations through false or deceptive advertising of the type done in recent weeks by Giant Food, Inc., under the guise of consumerism, just as the Securities and Exchange Commission constantly monitors the stock market for manipulators. I believe stock growers are entitled to the same degree of protection as stockholders. I think we should explore the feasibility and practicality of legislating in this area. The economy of a large part of our country depends on it. Thank you.

Mr. CURTIS. Mr. President, I want to express my gratitude to Chairman TALMADGE of the Committee on Agriculture and Forestry for scheduling some hearings to go into this matter. I invite my colleagues to join in these hearings. I urge the executive branch to take every step that can be taken to relieve this crisis.

The problem is so serious that some kind of urgent help is needed for feeders to keep them from being driven out of business. The Farmers Home Administration should make "disaster loans" available. This would be helpful to cattle feeders, the local banks, and the economy of the country at large.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield.

Mr. MANSFIELD. I was back home in Montana last week and I want to corroborate what the distinguished Senator from Nebraska has said about the difficulties in which the feedlot operators find themselves at the present time. I, too, have requested the distinguished Senator from Georgia (Mr. TALMADGE) to hold hearings on this matter, and I am delighted he has consented to call a meeting for the purpose of finding out what the situation is relative to the feedlot operators, which I think is becoming cataclysmic in some instances.

If something is not done, many of them are going to go broke. I hope that out of these hearings will come quick action so that the difficulties confronting the feedlot operators can be considered, tended to, and cured.

Mr. CURTIS. When the ceilings were on beef, the price of choice steer was $57 a hundred. Today it is near $40.

Mr. MANSFIELD. Around January 15 of last year it was $64, and the price now is what?

Mr. CURTIS. Around $40.

Mr. MANSFIELD. Around $40, which is lower than the highest price 20 years ago, in January 1951, I believe, when the figure was about $40.50. Not until January of last year, 1973, was that figure exceeded. Now, it once again is below the January 1951 price.

Mr. CURTIS. I thank the distinguished majority leader.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. HRUSKA. Mr. President, as a postscript to the remarks just made by the majority leader, the cost of raising and marketing it is about twice as much as 20 years ago.

My colleague is to be commended for bringing these facts to the attention of the Senate and others who are interested.

In the past week there have been meetings in Washington of the board of directors of the American National Cattlemen's Association. They assembled here from six or eight States. They are very substantial operators, each in his own right, in the cattle business. They brought news from their respective homes and from their respective locations which is distressing, and even more distressing, if it could be, than the news the Senator brings to our attention this afternoon.

I commend the Senator and join him in the happiness he has expressed that hearings will be held to bring out the facts here which will indicate that so much of the criticism which has been directed or leveled against the farmer and the cattleman is not warranted and is totally out of place. It is to be hoped that hearings will develop something which will be helpful in the situation.

Mr. CURTIS. I thank the distinguished senior Senator from Nebraska.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. HANSEN. Mr. President, I wish to join others in complimenting the distinguished Senator from Nebraska for the very cogent and important remarks he has just made. The same economic facts apply in the raising of cattle and producing beef as apply in the field of energy. It is just that simple. Americans are going to find out if this condition continues, if it is not corrected, that there will not be more beef available for Americans to eat, despite the lower prices which would seem to indicate more people would be able to buy it; but rather there will be less because the facts are that in the last few months a number of important feeders in this country, people who buy feeder cattle and feed them high-priced feed, and feeds are high-priced now, have lost between $150 and $200 a head.

I remarked several weeks ago that the Washington Post published a front-page story on what was, or I should say what was not happening in the State of Iowa. Here was a big feedlot and the farmer who owned it said his father would turn over in his grave if he were to know that for the first time in the history of that farm there were no cattle in that feedlot. They were not there for one very simple reason. It has not been a good year for feeders, having experiencd as many have, a loss of $150 to $250 per head, the typical farmer wisely concluded he had better sell his corn, he had better sell his hay and his grain at less than he might have been able to have earned on those farm products in a normal feeding year than to take the risk inherent in the situation now.

I can say that in the West today the feeder market is absolutely demoralized. Let me give the Senate a personal example. In my area, feeder calves last August were being offered and were being asked for at 80 cents a pound. A number of the people in western Wyoming sold later for 65 cents a pound. The market has now dropped to around 45 to 50 cents a pound. That shows how these prices backup all the way to the first producer.

The important thing to keep in mind is that if we want more of anything, we do not get more of anything by paying less for it.

During World War II, when there was serious question as to the ability of this Nation to produce an adequate amount of food for our fighting forces and to make the contribution we hoped we could make around the world, the Congress of the United States very wisely decided that the best way was to put a price on the grain that would guarantee farmers a profit.

Despite the fact that the ranks of labor on the farms of America then were at an all-time low, the farmer, his wife, and his children responded to the incentive that the Government held out for them through a guaranteed price. As a consequence, there was a great outpouring of grain in that year—wheat, and other cereals that got the job done, that enabled us to win the war.

I think the Senator from Nebraska has called our attention, in a very timely manner, to the need of examining a very important section of our agricultural economy, to find what the facts are; and that is what he is talking about here this afternoon. If we do that and then if we are guided by what those facts indicate must be done, I am convinced that this problem can be turned around; that American agriculture can continue to offer the backbone of support to the American economy that will make better days ahead for all Americans and assure at the same time an adequate supply of food, meat, and fiber.

But the time is late. Farmers have had some very serious experiences, and it is not too soon at all to examine the facts, as the Senator from Nebraska has proposed, to take cognizance of what the issues are at this critical time for agriculture, and then to take appropriate action. I look forward to these hearings and to hearing further from the distinguished Senator from Nebraska, who has made a very important contribution here this afternoon.

Mr. CURTIS. Mr. President, I thank the distinguished Senator.

I yield now to the distinguished Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, I will just take a minute to express my thanks to the Senator from Nebraska, and also to call attention to the amendment I plan to offer tomorrow. This amendment to S. 2747 would assure the citizens of this country a sufficient and economic supply of meat. It would direct the Cost of Living Council to devise and implement regulations which will require retail grocers to limit their gross margin markup in the sale of meat products to a level not exceeding the level that which grocers were using during the period April 1, 1972 to March 31, 1973. That amendment will be offered some time tomorrow.

Let me underscore what the Senator from Nebraska said. Last Friday it was my pleasure to address some 800 cattlemen in Manhattan, Kans. They made the same comments and the same statements about losses. They made the same comments about the high retail prices.

So, I would hope that the hearings and the other emphasis we may place on these problems by way of hearings or amendments or otherwise would do two things: First of all, emphasize that the livestock producer is losing between $50 and $100 a head; second, that for some reason—I do not look for a scapegoat—retail beef prices are high now when cattle prices are much lower than they were a year ago.

One example was given in a recent edition of the Washington Post, which showed that hamburger is selling for $1.19 a pound and live cattle are selling for about $44 a hundred pounds. A year ago, hamburger was selling for 90 cents a pound and cattle were selling for some $55 a hundred pounds. It indicates that somewhere along the line there is an inconsistency which should be looked into.

I commend the Senator from Nebraska and will, of course, join with him, as a member of the Agriculture Committee, in making certain that we can determine the facts.

Mr. President, I ask unanimous consent that the remarks I made in Manhattan, Kans., last Saturday, be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR BOB DOLE, CATTLEMEN'S DAY, KANSAS STATE UNIVERSITY

It's a pleasure to have this opportunity to address you today. In recent weeks, we have heard reports that justify a mild and cautious optimism about what's in store for the livestock industry. The more negative developments of the past several months have been framed against a backdrop of increasing Federal involvement, most of which has stifled and restricted the industry. Although it looks like we can expect some healthy changes in this trend, the lesson of the past year is clear and simple. Cattlemen must be always prepared to contend with and guard against the advocates of greater control and the mischief they can get us all into.

WHO GAINS FROM INCREASED CONTROLS

These advocates of greater regulation seem to want it for its own sake, as an expansion of power perhaps, because they never ask the basic question, who really gains from these unnecessary government controls?

The farmers lose, we know that!

The consumers lose, we know it and the public does too.

For the public learned a lesson the past year since the meat boycott. The consumer has learned that he cannot have plenty of meat at artificially low prices. He now knows that higher and more realistic prices stimulate more meat production and that without adequate price margins, cattlemen will have to curtail production.

BOYCOTT COUNTERPRODUCTIVE

It started with the housewives' boycott effort. When supplies fell off, they may have thought the cattlemen were merely retaliating for the boycott by reducing shipments. But they have finally begun to learn that these cattlemen had tremendous investments, and that a cattleman's bankers have a much greater influence over the replacement of cattle and the assurance of continued supply than any misguided consumer crusade for cheap meat can ever have.

Cheap meat could mean no meat!

GREATEST PROBLEM WITH PRICE CONTROLS

The severe winter of 1972–73 created some difficulties for the industry. But the Economic Stabilization Program has been a far greater disaster for the beef cattle industry. In spite of warnings by many of us in Congress who have supported the free market cattle system, ceilings were imposed on red meat prices at the end of March 1973. All of this, of course, was the result of the clamor to roll back meat prices during the debate on the renewal of the Economic Stabilization Act. As if this wasn't bad enough, the problem was compounded in July 1973 when ceiling prices were removed on all red meat except beef. In spite of the best efforts of some of us, beef ceiling prices were not lifted until early September. In short, a market already economically distorted in early 1973 was thrown further out of line by the political effort to keep consumer prices unrealistically low.

The housewives know the prices of meat in the grocery store . . . but some of them still think, mistakenly, that cattlemen are responsible for it and that cattlemen are still getting the prices for cattle that they got last summer.

Back then, Washington supermarkets were selling hamburger for 85–90 cents per pound. Yesterday in Washington, the price of hamburger hit $1.19 per pound. One store sells five-pound rolls of hamburger which just yesterday were priced over $5.00 for the first

time—at $5.25. Hamburger was not featured in a single newspaper ad this week. It's no wonder why.

Last summer when they were selling hamburger for 85 cents a pound, live cattle brought 55 cents a pound. Today, when live cattle are going for 44 cents per pound, they are selling hamburger for $1.19 per pound.

Grocers like any other businessmen are entitled to a fair profit. But this is ridiculous. Especially so when cattlemen are losing from $50 to $100 a head on every animal they sell to the packer. The price of live cattle has fallen over nine cents a pound since last August. But over the same time period, hamburger has gone up 29 cents and steaks and roasts, in fact all cuts of beef, have gone up or at least held constant. None have gone down.

Hamburger—a staple in most American households—is not even featured in any advertisements in Washington papers any more, since it went over $1.00 per pound.

Steak prices have fluctuated more . . . but are seldom featured items in newspaper grocery ads.

All these price distortions point up the fact that a very finely tuned machine—our cattle and beef production and distribution system—has been thrown off kilter. We haven't recovered from it yet and now energy problems and trucker protests have further delayed a return to anything like a normal situation.

ECONOMY LOSES

The entire economy loses when the government tampers with the markets. Why should you expand your operation when, at any moment, the government might step in and change the whole picture.

This uncertainty about the market ultimately hurts the consumer. Beef supplies simply won't be there unless there is an incentive to increase production.

The only solution for the upset market is to get out and stay out from under price controls. I hope consumers are learning that you can't just order prices to fall and get away with it. If we want lower prices, we must forget price controls and concentrate on increasing the supply.

Obviously, the current Economic Stabilization Program for food must be terminated. The Economic Stabilization Act expires on April 30, and it should not be extended. Unless it is allowed to lapse, there will always be the temptation to tamper with the market place again for reasons of political expediency.

FEDERAL INTERFERENCE

As if interference by EPA, FOA and COLC was not enough, we now all know that the Packers and Stockyards Administration is getting into the act.

METHOD, NOT ISSUES

I am not necessarily quarreling with the issues these agencies raise. No cattleman would want to produce beef which is not fit for human consumption. Nobody wants polluted streams and lakes and certainly no one wants to be cheated out of a fair profit by market manipulation. What I am opposed to is oppressive government controls and a maze of Federal regulations through which no cattleman can find his way.

The cattle industry has traditionally been free of regulation and I see no reason why cattlemen cannot continue to run a fair and honest business without being registered and regulated and harassed by several giant Federal bureaucracies.

PUBLIC PRESSURE

Of course, I cannot deny that pressure groups exert considerable influence. For example, the EPA is being sued right now by an environmentalist group to require the registration of all livestock owners as potential pollution sources. It is clearly unreasonable to require the registration of every cattle operation in the state of Kansas, regardless of size. But this is exactly what could happen if EPA loses this lawsuit. It would be intolerable for the thousands of farmers and small ranchers owning a few head. You may be sure I shall suggest corrective legislation if that's what it takes to rectify the situation. But again, popular public opinion has an effect on Congress as well as the government and could be a limiting factor.

POSITIVE ROLE FOR GOVERNMENT

Although many Federal measures have been harmful or counterproductive, I feel the government can take a positive role for the cattle industry. Such a role would be supportive rather than regulatory.

One beneficial area would be in animal health research. Last year in hearings before the Senate Agriculture Committee, we heard testimony on the millions of dollars in losses due to shipping fever and other diseases.

The Veterinarian School here at Kansas State University has taken a leading role in animal research. As many of you know, the school was left out on a limb in the middle of an expansion program by the cut-off of federal funds.

ANIMAL HEALTH RESEARCH BILL

I have asked Senator Talmadge, Chairman of the Senate Agriculture Committee, that the Animal Health Research Bill passed by the House of Representatives last month be brought before the Committee promptly for consideration. This bill would provide funds for the Veterinarian School here at K-State and for several other research programs. Hopefully, the Committee will report this bill to the Senate for a vote in the near future.

EXPORT POTENTIAL

The government's assistance in developing export markets for our meat could be a great support to the cattle industry.

Expanded worldwide consumption of protein has stimulated a new interest in grain fed beef, and the U.S. is the leader in production of this beef and in related technologies. If our government would devote its effort to helping the industry sell this beef, our domestic markets and demand would stabilize after the recent dislocations caused by economic controls and energy shortages.

It is interesting to note that our exports of livestock products have increased over fifty percent the past year from fifty million pounds to eighty million pounds. At the same time our imports of beef from other countries have essentially stabilized. 1973 beef imports were less than one-half of one percent higher than 1972. Total meat imports decreased two percent from 1972 to 1973.

A major cause for this, of course, is the devaluation of the dollar and the resulting change in the relationship of our prices to those in other nations. Australia, Guatemala and other nations from whom we traditionally imported beef are now looking at potential markets throughout the world that offer $5.00 to $10.00 a pound of beef.

Commercial attaches in foreign nations should start to investigate how we can reduce or eliminate many trade barriers—from meat inspection to tariffs, quotas and levies. With these barriers removed, and a little assistance in trade fairs, I am confident the cattle industry could expand markets worldwide, to the benefit of all American citizens from the cattleman to the consumer.

Such federal support is the proper responsibility of our government and would be far more appropriate and productive than the environmental and economic bullying to which the industry is repeatedly subjected.

Our nation was built on the concept of an unrestricted economy. That system has been operational for nearly 200 years. During that period the advancement has been great. Why change it now and inhibit further promises of the future. Let's let the system work.

COMPARISON PRICES

	1967	1970	1972	Summer 1973	February 1974
Choice steers Omaha, hundredweight	$25.27	$29.34	$35.83	$53.61	$44.25
Hamburger, per pound	.60	.72	.79	.90	1.19
Round steak, per pound	.99	1.17	1.35	1.69	1.69
Chuck roast, per pound	.64	.75	.85	1.17	1.19

Source: USDA Economic Research Service.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM THURSDAY TO FRIDAY AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until the hour of 11 a.m. on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM FRIDAY TO MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in adjournment until the hour of 12 noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER UNFINISHED BUSINESS (S. 2747) TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, the Senate proceed to the consideration of the unfinished business, S. 2747.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING OF 200 ADDITIONAL COPIES OF H.R. 2

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be printed 200 additional copies of H.R. 2,

the pension reform bill, as it passed the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEFINITE POSTPONEMENT OF SENATE RESOLUTION 276

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 656 (S. Res. 276), the Dominick pay resolution, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been a period for transaction of routine morning business today?

The PRESIDING OFFICER. There has not been.

Mr. ROBERT C. BYRD. I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, the Committee on Rules and Administration is today filing its report on S. 1541, the Congressional Budget Act of 1974. The bill was reported to the Senate on February 21, with an amendment in the nature of a substitute. By unanimous consent of the Senate, the committee was authorized to delay the report until today.

Let me emphasize that this bill basically is a Government Operations Committee bill. It is not a Rules Committee bill. The bill that was reported from Government Operations on November 20, 1973 so affected the Standing Rules of the Senate that it was necessary that the Committee on Rules and Administration study it. It was, therefore, referred to the Rules Committee on November 30, 1973. The distinguished Chairman of the Government Operations Committee (Mr. ERVIN), the Ranking Minority Member, (Mr. PERCY), the Senator from Maine (Mr. MUSKIE) and the Senator from Montana (Mr. METCALF) and others who made major contributions to the original bill fully cooperated in the referral to the Rules Committee. They then kept in close touch with us and agreed to revise the dates, from time to time, on which the committee was to report the bill back to the Senate.

The Subcommittee on Standing Rules of the Senate, with the understanding of the chairman of the Rules Committee (Mr. CANNON), conducted a hearing on the bill during the recess between the first and second sessions of the 93d Congress.

The Senator from Michigan (Mr. GRIFFIN) and I heard testimony on January 15 from eight witnesses. The hearing was well attended and it lasted throughout an entire day. The witnesses included the Senator from Montana (Mr. METCALF), the Senator from Tennessee (Mr. BROCK), Mr. Staats, the Comptroller General of the United States, Mr. Ash, the Director of Office of Management and Budget, Mr. Charles Schultze, a former Budget Director, Mrs. Alice Rivlin, from the Brookings Institution and Mr. Robert Wallace, a consultant to the Government Operations Committee.

Based largely upon that hearing, it was determined that there were a good many areas of the bill that ought to be studied further and possibly revised. I asked the Staff Director of the Rules Committee, Mr. William Cochrane, to enlist the cooperation of staff people from various standing committees of the Senate in reviewing the questions which had been raised.

Mr. President, all standing committees of the Senate were invited to submit views to the Committee on Rules and to assign staff to work with us. Staff people from ten of the committees of the Senate, from four joint committees and from the House Appropriations Committee were made available to help. Staff from the Congressional Research Service, the Senate Legislative Counsel's Office and the Parliamentarian's Office provided invaluable assistance. There were over 2,000 man-hours of staff work put into the 25 working sessions that the staff group held after the day of hearing.

I believe the staff effort and study is certainly one of the finest examples I have seen during my 16 years of service in the Senate of staff cooperation and performance. The product that is described in this committee report on S. 1541 is the result of a great deal of work on the part of those dedicated staff people.

I spent many hours with the Parliamentarian and met with some of the staff people at four working sessions, two of which went through the entire day. Those working sessions were conducted during the Lincoln's Day recess. We went through the whole bill and found that it had been greatly simplified by the staff during their working sessions. Most of the suggestions for change made to the committee were accommodated in some way. But this was done without departing from the basic structure and purposes of the Government Operations Committee bill.

I have never seen such a dedicated effort on the part of so many staff people, representing so many Senators and so many committees of the Senate, each of whom had some strong views about this bill. The bill represents a resolution among those many divergent viewpoints. It required the giving up of strongly held views on the part of many of the staff members, representing their Senators or their committees. But they shared an interest in bringing to the committee a bill which, as nearly as possible, represents a consensus among all of those who participated.

Mr. President, we have here a bill which is still complex—and which may not work as well as we hope it might. But I think we have to act on this vital matter. A political decision has already been made by the public, and probably by ourselves, that some action needs to be taken in this area. We must provide Congress the tools to handle the overall budget policy decisions—involving revenues, expenditures, appropriations, and debt. This will make meaningful the concept that the Congress is the keeper of the public purse. But it will also elevate the level of economic discourse in the Congress. We cannot afford to abdicate to the President on matters of economic policy.

The Committee on Rules and Administration reviewed the recommendations of the staff group on February 19 and 20. With some further changes it reported the bill by unanimous vote. All of the committee members have asked to cosponsor this legislation.

We hope that we have reported a bill which is: enactable; workable; and useful. When the bill is called up, I am sure there will be Senators who will question it; some will possibly oppose it. But I have a feeling that we can and we will enact a bill along the lines of the committee amendment.

If the new congressional budget process is to succeed, it must be workable. It must be adapted to the accustomed methods of our committees and Members. But it must add a new dimension to our work—a comprehensive budgetary policy framework. I think the bill can do both.

So we hope this is a bill that is not only enactable, but that it is workable. Finally, it must also be useful. If it does not improve the quality of our policymaking, it may not be worth the cost. But I believe the bill contains the new structures and procedures which can strengthen the role of Congress in budget and fiscal policymaking.

Mr. President, I want to emphasize that strengthening our capacity in these new policymaking areas should not derogate in any way from the roles of the Appropriations Committee, or the Finance Committee, or the other standing committees. All must participate fully if the Congress is to live up to its constitutional responsibilities. I hope and believe that the bill and the report make it clear that this is our intent. The bill is not perfect, but I think it is the best we could possibly produce.

I hope all Members will carefully study the bill and report. We have failed before in setting up a congressional budget process. I would not like to see us fail again. We need the contributions and cooperation of all Senators.

Mr. PERCY. Mr. President, I have listened with great interest to the remarks of the distinguished acting majority leader. It is not my intention to address myself to the substance of the important legislation that the Senator

from West Virginia has discussed, S 1541.

It is my purpose this evening to express on behalf of the Senator from North Carolina (Mr. ERVIN), the chairman of the Government Operations Committee, myself as the ranking minority member, and all the membership of the committee our very deep appreciation to the Senator from West Virginia (Mr. ROBERT C. BYRD), the chairman of the subcommittee of the Committee on Rules and Administration, and the Senator from Michigan (Mr. GRIFFIN), the ranking minority member of the subcommittee, for the distinguished work they have done on this piece of legislation.

We have, of course, had the total cooperation of the chairman of the Committee on Rules and Administration, the Senator from Nevada (Mr. CANNON), and the Senator from Kentucky (Mr. COOK), the ranking minority member, both of whom have also contributed a great deal to this legislation.

I think that the Senator from Michigan (Mr. GRIFFIN) would join with me in saying that this piece of work that was done over the holidays and that has been done ever since this particular session of the Congress began by the Senator from West Virginia (Mr. ROBERT C. BYRD) is very typical of many of the characteristics he has demonstrated throughout the years to his colleagues in the Senate and, before, in the House of Representatives. When he goes after a matter, he does it with a thoroughness that brings forth admiration from all of us.

The Senator from West Virginia is a master of not only the principle and the objective and the goal of getting the total picture of a piece of legislation, but he is also willing to undertake the detailed work which finally turns out a piece of legislation that is perfected in every detail.

As the Senator from West Virginia has said, this piece of legislation and no other piece of legislation is ever perfect. Always, after one works with something, he will find ways to modify it. However, I believe that, although the Government Operations Committee reported out a piece of legislation that we thought was as near perfect as we could make it, we now recognize that through the many things that have been done by the subcommittee and by the Committee on Rules and Administration in working it over, they have once again found ways to improve substantially the work that we have intended to accomplish.

They have gone about the work thoroughly. They have been extraordinarily careful, and they have drawn—Senator BYRD particularly—upon their unparalleled knowledge of the operations of the Congress of the United States. Certainly such knowledge was not available to the Senator from Illinois when he worked on it. The 7 years I have put in in the Senate would not qualify me. I have not served in the House of Representatives, but I have been long enough in Congress to recognize immediately that many of these knotty problems we worked on were perceived for what they were—problems that could be further refined and solved—and the legislation that is now before the Senate is far better than I think it would have been otherwise. We are deeply grateful for the work that has been done.

I think we will all agree, as we look at this legislation now—it has really been my dream since I entered the Senate to see that the business portion of the work of the Congress of the United States and the Government of the United States is approached in a businesslike, thorough manner—that this legislation comes at a most opportune time, when today, before our Government Operations Committee Subcommittee on Investigations, seven mayors of seven major cities in the United States said the No. 1 problem in the minds of the people is not just gasoline and energy, it is not Watergate—the No. 1 problem is inflation and rising prices, the eroding income they have experienced, and the erosion of their own paychecks that every day rising prices bring about.

So certainly the legislation comes at a perfect time to face up to the No. 1 problem people have—inflation and rising prices—and will enable Congress to put under control its fiscal house. As Arthur Burns has said, if we can do that, it will do more to restore the integrity of the dollar and dampen down inflation than any other single action that could be taken.

Also at this time, when Congress is held in low esteem, along with many other institutions in the country, by the people, to have us put our fiscal house in order and improve our procedures now in the most dramatic way that has happened since the Reorganization Act of 1954——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements during morning business be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I shall be very brief, and simply conclude by saying that the timing is perfect, and with the very broad-based support that this measure has found, I think every American family should understand that we, like a family here in the Congress of the United States managing the purse strings of the Federal Treasury, in a sense, are now going to reassert our authority, are going to take back the responsibility that the Constitution gives to us, and work through, in this budget reform bill, a new procedure to enable us to perform the function that the people of the United States expect Congress to perform.

I join, as I know Senator ERVIN, if he were present, would want me to express on his behalf as well, in expressing deep gratitude to the Committee on Rules and Administration, and particularly to Senator BYRD, the chairman of the subcommittee, and Senator GRIFFIN, the ranking minority member, for the extraordinary work they have put into this measure, that has given us, now, a bill that is reported out to the Senate ready for debate.

There certainly is room for discussion and argument, but we shall be far better prepared to send forth a bill that we deeply believe in. There will be some modification and amendments, without question, that will be considered. But we have had wonderful cooperation from the staff and extraordinary help from the Parliamentarian and other officers of the Senate, and I think that we are now prepared to fully debate a measure that affects every single Member of Congress and every Senator in this body. I think we will make them feel a great deal better about the procedures under which we operate in the future, as a result of the passage of this bill.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator has been overly generous in his compliments and his comments with respect to my efforts in connection with this bill. It was the Government Operations Committee, and he is a member of that committee, that reported out the bill initially, and I think that every reason exists for giving that committee and the members thereof great credit for the genesis of this legislation.

I am particularly grateful to the staff people on the House Appropriations Committee who participated in our work. I am also grateful to Mr. Ash and his associates, because we worked with them and attempted to get their support, particularly, for the changing of the fiscal year from July 1–June 30 to October 1–September 30, and we made certain modifications in the bill in order to achieve the workability that we thought was possible by virtue of certain suggestions made by Mr. Ash and his people.

Having the participation on the part of the House Appropriations staff encourages me to believe that the bill can really be workable—more so than I had thought ealier. With the kind of cooperation that we received, which indicated to me a certain strong determination on the part of the Appropriations Committee on the other side of the Capitol, I feel very much encouraged about the prospect, not only for enactment of this legislation now, but for its workability.

The distinguished Senator from Illinois has been most gracious throughout this long period subsequent to the initial reporting of the bill from his committee. He has been most understanding, as have Mr. MUSKIE, Mr. ERVIN, Mr. METCALF, and the other members of the Government Operations Committee. Without that kind of understanding and cooperation, the Subcommittee on Standing Rules would not have been able to work its will as it did. Certainly, without the input of Senator PERCY's people and the staff members representing the other Senators mentioned and the various committees, we could not have accomplished what we did.

It is still an imperfect bill. It will be thus when it is enacted. But we have done our best.

I think it was Mark Twain who said he could live 2 weeks off a good compliment. Perhaps it was 2 months. But whatever length of time it was, I likewise can live a long time off the kind words the Senator from Illinois has spoken today.

I look forward to the debate on this measure. I think for once that I would not favor a time limitation agreement on this bill—at least for the first 2 or 3 days. It is of such far-reaching importance, and it is a difficult bill and I am hopeful that there will come a time when those of us who made some contributions to it will be able to look back and say it was the most important piece of legislation that was enacted in this Congress, or perhaps during our service. If it works, and achieves the objective we seek—when I say "we" I mean all the members of the Government Operations Committee and the Rules Committee—I think I can say without any reservation that it will be certainly one of the most if not the most important piece of legislation that has been enacted during my 22 years on the Hill. If it works, and I think it can work, and if it achieves the objectives desired, I think that is the way most of us will look back and feel about this bill. I do not need to state here the reasons why this kind of legislation is so greatly needed.

I thank the distinguished Senator and, as I say, for the first couple of days at least, I will not be seeking any time agreement because I think the Senate should put its best talents into the bill. We should give our full attention to the measure and debate it thoroughly so that if mistakes have been made they can be corrected. If the bill can be further improved, it ought to be done.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By Mr. TALMADGE:

A letter from Allen Victor Hayes seeking a redress of grievances. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

H.R. 5450. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes (Rept. No. 93-726).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Carla Anderson Hills, of California, to be an Assistant Attorney General; and

Hosea M. Ray, of Mississippi, to be U.S. attorney for the northern district of Mississippi.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Thomas E. Stagg, Jr., of Louisiana, to be U.S. district judge for the western district of Louisiana.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Ethel Weinberg, of Pennsylvania, to be a member of the Board of Regents, National Library of Medicine, Public Health Service; and

Joseph Francis Volker, of Alabama, to be a member of the Board of Regents, National Library of Medicine, Public Health Service.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HART (for himself, Mr. MONDALE, and Mr. CRANSTON):

S. 3115. A bill to provide, on a demonstration basis, emergency relief for the general welfare and security of the United States by preventing the loss of existing housing units through the phenomenon of housing abandonment, to protect the health and living standards in communities and neighborhoods threatened by abandonment, to protect the interests of the United States in connection with certain mortgage transactions, to assist local public bodies in the development and redevelopment of well-planned, integrated, residential neighborhoods and in the development and redevelopment of communities, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HATFIELD:

S. 3116. A bill to protect the individual's right to privacy by prohibiting the sale or distribution of certain information. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN (by request):

S. 3117. A bill to authorize appropriations for the Department of State and for other purposes;

S. 3118. A bill to authorize appropriations for the United States Information Agency, and for other purposes; and

S. 3119. A bill to amend the Department of State Appropriations Authorization Act of 1973 and the Foreign Service Buildings Act, 1926. Referred to the Committee on Foreign Relations.

By Mr. SPARKMAN (for himself and Mr. HARTKE):

S. 3120. A bill to bring certain employees of the Department of Defense within the purview of the competitive civil service, and for other purposes; and

S. 3121. A bill to amend title 5, United States Code, to include as creditable service for purposes of the civil service retirement system certain periods of service of civilian employees of nonappropriated fund positions in special services recreation and morale programs of the Armed Forces. Referred to the Committee on Post Office and Civil Service.

By Mr. INOUYE:

S. 3122. A bill for the relief of Miss Sovita Fano. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 3123 A bill to establish a universal food service program for children. Referred to the Committee on Agriculture and Forestry.

By Mr. BAKER (by request):

S. 3124. A bill to increase the size of the Executive Protective Service. Referred to the Committee on Public Works.

By Mr. STEVENSON:

S. 3125. A bill to amend section 4(s) of title I of article I of the District of Columbia Income and Franchise Tax Act of 1947, as amended. Referred to the Committee on the District of Columbia.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART (for himself, Mr. MONDALE, and Mr. CRANSTON):

S. 3115. A bill to provide, on a demonstration basis, emergency relief for the general welfare and security of the United States by preventing the loss of existing housing units through the phenomenon of housing abandonment, to protect the health and living standards in communities and neighborhoods threatened by abandonment, to protect the interests of the United States in connection with certain mortgage transactions, to assist local public bodies in the development and redevelopment of well-planned, integrated, residential neighborhoods and in the development and redevelopment of communities, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

ABANDONMENT DISASTER DEMONSTRATION RELIEF ACT

Mr. HART. Mr. President, I introduce for Senator CRANSTON, Senator MONDALE, and myself the Abandonment Disaster Demonstration Relief Act.

While it is impossible to get exact figures on the total number of abandoned housing units in the country, estimates indicated that the total runs into the hundreds of thousands.

It is possible, however, to be more exact in determining the number of units which have been acquired by the Department of Housing and Urban Development and the Veterans' Administration through foreclosure.

As of December 31, 1973, HUD reported owning 75,269 repossessed units nationally, including about 12,000 in Detroit, and 5,971 units in Los Angeles. The figure for HUD-related abandoned units is probably higher because HUD has not yet taken actual ownership of some abandoned units.

As of December 31, 1973, the VA owned 11,046 repossessed units, including 776 in Detroit and 2,588 in Los Angeles.

During the lengthy period between abandonment and securing of title by a Federal agency, many of the units are severely damaged. As a result, the abandonment problem creates urban blight, often encourages further deterioration of neighborhoods, eliminates badly needed units from existing housing stocks, and reduces tax revenues.

Many different reasons have been given for the abandonment problem, but it is difficult to deny that the Federal Government is not at least partially responsible for the problem.

For the best of intentions, persons who could not afford housing were allowed to buy units.

Little or no counseling for families buying a house for the first time was provided.

As evidenced by results of criminal investigations, kickback schemes and

gougings, sometimes involving HUD personnel, played a part.

Usually, an insured mortgage was sold on the secondary market. As a result, there was no real financial incentive to help the homebuyer make good on mortgage commitments.

For whatever reason, the abandonment problem has become a disaster in many cities and smaller communities across the country.

If a natural disaster had wiped out many thousands of housing units, Federal aid would have been available to assist rebuilding efforts. And as happened following some natural disasters, the rebuilding effort could offer an opportunity to improve the stricken community over what it had been.

Recognizing that the Federal Government had a hand in creating the abandonment disaster, and recognizing that the Federal Government has a strong interest in the quality of housing, generally, and specifically, in protecting the housing for which it has insured or guaranteed mortgages, Senator CRANSTON and I are introducing a bill to establish a special Government-sponsored corporation to deal with the problem of abandoned housing units.

The agency, to be called the Neighborhood Corporation, would be able:

To secure possession and ownership of many abandoned housing units quickly to prevent deterioration of the unit and to stem the spread of abandonment in a neighborhood.

To renovate and rent or sell abandoned units and to originate mortgages at interest rates below the going market rate.

To hold land for redevelopment and to construct new housing in accordance with a city's community development or housing plan.

In addition, housing units now owned by the Department of Housing and Urban Development and the Veterans' Administration would be turned over to the corporation. The corporation would pay HUD and A the amount remaining on the foreclosed mortgage or the fair market value, whichever is less. However, the corporation would pay off the balance of the mortgage on property taken after it is formed.

The corporation would be authorized to operate 5-year demonstration programs in three metropolitan housing areas. If the approach works, the life and activities of the corporation could be extended by Congress.

Program areas would be selected on the basis of the seriousness of their abandonment problems and of the proposals of the major city in the market area to work with the corporation. However, the corporation would be authorized to work with any suburban communities in the housing area which have an abandonment problem.

We have proposed a demonstration program fully aware that experience has taught us the wisdom of testing a concept before launching a massive effort.

The proposal is modeled, in part, after the Home Owners Loan Corporation, which helped families avoid foreclosure on mortgages during the 1930's. The HOLC went out of business in 1951, showing a small profit.

The Neighborhood Corporation would be funded through issuance of $35 million worth of stock which the Secretary of the Treasury would be requested to buy.

Additional capital would be raised through issuance of debt obligations in the private capital market not to exceed $350 million. The Treasury would be authorized but not obligated to purchase these obligations.

The backup authority of the Treasury, similar to the approach which has enabled the Federal National Mortgage Association and other Government-sponsored organizations to raise money, and the guarantee of at least 10 percent equity capital would encourage investors to purchase the corporation's debt obligations.

Because the obligations sold by the corporation would not be debt obligations of the United States, the corporation's funding would not be affected by any Federal debt ceiling.

Certainly people can legitimately question why another Federal-type agency should be established to solve a problem created, at least in part, by an existing Government department.

The question implies either that the problem should be turned over to the affected communities or left to HUD. We reached a different conclusion because we believe the problem demanded an agency which:

First. Would have authority to greatly reduce the period a house stands empty between the time of abandonment and foreclosure;

Second. Would be flexible in its approach so communities could take advantage of what has been a disaster to rebuild as well as rehabilitate;

Third. Provide cities afflicted with housing abandonment extra money to deal with the problem rather than to force them to make do with normal housing or community development funds;

Fourth. Would insure a steady flow of money so a sound program could be planned, which meant taking the Agency out of the normal Federal appropriations process. However, we doubted if Congress would give such Federal support for funding to individual local agencies.

HUD, or at least FHA, traditionally has been a lender-oriented agency and clearly has lost the confidence of many of the people who would be served by an abandonment disaster relief program. For such a program to work, the agency must gain the confidence of the people served. A new agency directed to solving a particular problem staffed by people who know their assignment from the start has a better chance of building that confidence, as evidenced by the HOLC.

Further, to better coordinate rehabilitation and rebuilding activities and to ease any relocation problem, it makes sense to have the abandoned units in a geographic area under control of a single entity. This does not preclude, of course, the corporation turning over numbers of units to a city, State or other type of organization which has a sound plan. In fact, the bill specifically authorizes such action.

And finally, we believed it would be extremely difficult for any city, particularly some of the smaller suburban communities, to take effective control of large numbers of abandoned housing units at one time even with additional financial help.

The bill establishes criteria for determining whether a unit is abandoned. At the request of the corporation, a U.S. district court judge or a U.S. magistrate can issue an order for the corporation to take possession of a unit meeting the criteria. A hearing must be held within 30 days to determine whether title shall pass to the corporation. If it is found that the building was incorrectly taken, the court can order the corporation to pay legal fees, costs, and damages.

A residential property whose mortgage is federally insured or guaranteed or held by a federally related institution would be considered abandoned if the mortgagor has vacated the property and has defaulted on the mortgage.

A multifamily building would be considered abandoned when the mortgagor had reduced operating services substantially below an adequate level, and defaulted on the mortgage and was more than 6 months in arrears on real propery tax payments.

However, for a "conventional" mortgage to come under the authority of the act, the mortgage must be held by a federally related financial institution whose liquidity is affected because of the number of mortgages in default it holds.

Activities of the corporation are covered by the Uniform Relocation Act.

I grant that the proposal, even limited to a 5-year, three-city demonstration program, is ambitious, but I think that even a short visit to neighborhoods blighted by abandonment would convince a rational person that special help, even if not the form we proposed today, is needed and justified.

I ask unanimous consent that a report on the number of abandoned units prepared by the Library of Congress, a chart showing the number of abandoned housing units in various cities, a memorandum explaining the rationale and details of the proposal in more detail, and the bill be printed in the CONGRESSIONAL RECORD.

Before concluding, I would like to thank Senator CRANSTON and Ms. Deena Sosson, of his staff, for the leadership they have taken in developing this legislation. Also, an equally warm expression of gratitude must go to Dr. Henry Schechter, of the Library of Congress, who was a constant source of ideas and knowledge about the housing industry and housing program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FIGURES ON URBAN HOUSING ABANDONMENT

In response to your request for figures on housing abandonment we have compiled the two enclosed tables. The first presents the results of a mail questionaire survey based on various city surveys of vacant buildings. Conducted in early 1971 by the National Association of Housing and Redevelopment officials, it includes only cities that reported two percent or more of their housing stock as

being abandoned. Supplementing this table are some more recent data for selected major cities, the figures for which are drawn from several studies.

It should be noted that the accuracy of most current figures on the magnitude of housing abandonment may be suspect, since this problem has received relatively little hard analysis, quantification, or even a broadly acceptable definition. Some surveys count as abandoned structures only those standing buildings that appear deteriorated and vacant of tenantry.[1] Other studies include structures that have been demolished due to the owner's fears of continued economic loss. In this view abandonment is synonymous with "housing loss occurring as a result of a failing local housing market which, for the most part, is incapable of regeneration."[2] Still others maintain that when a building is only temporarily unoccupied or is to be demolished for another socially or economically useful purpose, it cannot be considered finally abandoned.[3]

When this inconsistency in basic definition is coupled with the confusion over classifying immediate causes of housing loss, accuracy of data is further suspect. New York City readily admits that accurate figures on its abandonment levels simply do not exist, pointing to the problem of frequent "double counting" of housing losses that can be due to fire, public improvement sites, urban renewal projects, highway rights of way and private demolition for new construction as well as abandonment. These problems in the counting of abandoned buildings may help explain the disparity between surveys that show New York City losing as few as 15,000 units a year and others showing as many as 50,000 units a year.

Nevertheless, it is believed that the figures can be used to indicate the magnitudes of housing abandonments in localities and nationwide.

CONGRESSIONAL RESEARCH SERVICE

HOUSING ABANDONMENT LEVELS NATIONALLY IN 1971

City and location	Total number	Dwelling units number abandoned	Percent abandoned
NORTHEAST			
Paterson, N.J.	49,335	18,119	36.6
Utica, N.Y.	32,770	9,820	28.0
Allegheny County, Pa.	533,196	[1] 13,380	2.5
Baltimore, Md.	305,464	10,000	3.2
Erie, Pa.	42,677	4,743	11.0
Monessen, Pa.	5,320	165	3.1
Philadelphia, Pa.	673,390	[1] 23,833	3.5
SOUTHEAST			
Jacksonville, Fla.	174,189	15,000	8.6
Owensboro, Ky.	16,927	666	3.9
Winston-Salem, N.C.	44,899	1,850	4.1
MIDWEST			
Cincinnati, Ohio	172,000	4,500	2.6
Toledo, Ohio	121,000	9,100	7.5
Joplin, Mo.	15,934	360	2.2
St. Louis, Mo.	238,441	9,000	3.7
SOUTHWEST			
Oklahoma City, Okla.	138,378	6,000	4.3
Tucson, Ariz.	89,256	9,400	10.5
WEST COAST			
Oakland, Calif.	147,000	5,738	3.9
San Jose, Calif.	150,211	17,069	11.3
Portland, Oreg.	152,043	4,550	2.9

[1] This figure represents number of buildings and is a better approximation of number of dwelling units the lower is the housing density, i.e the closer it conforms to single family dwellings.

Sources: Mail questionnaire survey of abandoned housing conducted by the National Association of Housing and Redevelopment Officials 1971 and U.S. Census of Housing and Population 1970. "Experimental Approaches to the Amelioration of Housing Abandonment and Neighborhood Decline," by Philip H. Friedly, Office of the Assistant Secretary for Research and Technology, U.S. Department of Housing and Urban Development, Washington, D.C. December 1971.

HOUSING ABANDONMENT LEVELS FOR ADDITIONAL SELECTED MAJOR CITIES

Year of survey, city, and level of abandonment

1973, Baltimore, 12,000 units.

1971, Birmingham, 800 units demolished; another 2,300 scheduled for demolition.

1971, Boston, 800 to 1,000 structures.

1973, Chicago, 1,100 structures, 5,000 units; Woodlawn and Lawndale sections—20% of units.

1971, Cleveland, 2,400 units a year.

1971, Detroit, 2,000 to 3,000 structures.

1973, New York City, 100,000 units.

1973, Philadelphia, 30,000 units.

1973, St. Louis, 3,500 structures, 10,000 units; most afflicted areas—16% of units.

1972, Washington, D.C., 1,634 structures, 3,260 units.

SOURCES: "The Central City Problem and Urban Renewal Policy", Committee Print, 93rd Congress, 1st Session, Senate Committee on Housing and Urban Affairs, p. 107, 1973.

"Abandoned Housing Research: A Compendium", Dept. of Housing and Urban Development, p. 5, US GPO, Wash. D.C., 1973.

Final Report on Housing Abandonment in Washington, D.C., Linton, Mields and Coston, Inc., p. 4, June 1972.

"Papers Submitted to Subcommittee on Housing Panels", Committee Print, 92nd Cong., 1st Session, House Committee on Banking and Currency, p. 36, 1971.

"The National Survey of Housing Abandonment", The National Urban League, April, 1971.

Repossessed homes held by FHA as of December 31, 1973

Nationwide	75,269
New York	2,943
Atlanta	656
Detroit	12,000
Los Angeles	5,971

Repossessed homes held by VA as of December 31, 1973

Nationwide	11,046
Los Angeles	2,588
Cleveland	1,151
Detroit	776
Houston	667
Atlanta	653
Waco	482
Chicago	443
Newark, N.J.	439
Wichita	359
St. Louis	347
San Francisco	309
Indianapolis	302
Seattle	296

MEMORANDUM—ABANDONED DISASTER DEMONSTRATION RELIEF ACT

I. THE PROBLEM

It is impossible to get exact figures on the total number of abandoned housing units in the country because no complete inventory has been made. For example, the Library of Congress estimates that there are 100,000 abandoned units in New York City alone.

However, it is possible to be more exact in determining the number of units acquired by the Department of Housing and Urban Development and the Veterans' Administration through foreclosure.

As of December 31, 1973, HUD reported owning 75,269 repossessed units nationally, including about 12,000 in Detroit, and 5,971 units in Los Angeles. The figure for HUD-related abandoned units is probably higher because HUD has not yet taken actual ownership of some abandoned units.

As of December 31, 1973, the VA owned 11,046 repossessed units, including 776 in Detroit and 2,588 in Los Angeles.

During the lengthy period between abandonment and securing of title by a Federal agency, many of the units are severely damaged. As a result, the abandonment problem creates urban blight, often encourages further deterioration of neighborhoods, eliminates badly needed units from existing housing stocks, and reduces tax revenues.

There are many different reasons given for the abandonment problem, but it is difficult to deny that the Federal Government is not at least partially responsible for the problem.

For the best of intentions, persons who could not afford housing were allowed to buy units.

Little or no counseling for families buying a house for the first time was provided.

As evidenced by results of criminal investigations, kickback schemes and gougings, sometimes involving HUD personnel, played a part.

Usually, an insured mortgage was sold on the secondary market. As a result, there was no real financial incentive to help the homebuyer make good on mortgage commitments.

II. A SOLUTION TO THE PROBLEM

The problem suggests a program which would:

1. Be able to secure possession and ownership of abandoned houses quickly to prevent deterioration of the unit and stem the spread of abandonment in the neighborhood.

2. Be able to renovate and rent or sell abandoned units.

3. Recognizing that some units should be razed, be able to hold blocks of land for redevelopment in accordance with a community's development or housing plan.

4. Be responsible for bringing units it sells or rents up to code (except for units used in a homesteading program), be responsible on a continuing basis for the condition of the units it rents, and be responsible for servicing (including counseling on money and home management matters) the mortgages of the units it sells.

5. Provide new money over and above any federal money coming to a community and be able to ensure the flow of money against any budgetary cutback either by Congress or an administration.

6. Be operated by an agency dedicated solely to solving the problem and which could gain the support of the communities it serves.

7. Encourage lenders to cooperate with the program to forestall possible foreclosures.

III. THE HART-CRANSTON PROPOSAL BASED ON THESE GOALS

The Abandonment Disaster Demonstration Relief Act works this way.

A. Neighborhood Protection Corporation.

1. The bill establishes the Neighborhood Protection Corporation, which will be an independent, government-sponsored agency. The president, vice president and directors of the corporation shall be nominated by the President and confirmed by the Senate.

B. Demonstration Program.

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[1] Linton, Mields & Coston, "A Study of the Problems of Abandoned Housing and Recommendations for Action by the Federal Government and Localities," Washington, D.C. 1971 mimeo, pp. 19–20.

[2] Sterlieb George, and Burchell, R. W. "Residential Adandonment", Rutgers University, Brunswick, New Jersey, 1973, p. 277.

[3] National Urban League, "The National Survey of Housing Abandonment", New York, 1971, p. 12.

1. To test the feasibility of the program, the corporation will operate in three metropolitan housing areas with substantial abandonment problems. In selecting the three cities, the corporation will judge, in part, applications from cities on the basis of proposals to work with the corporation on the problem.

2. Unless continued by Congress, the corporation will not be able to acquire any property after five years from the date of enactment, and will then proceed to put itself out of business. The board will make a recommendation on whether the corporation's activities and life should be extended at the end of the fourth year of operation.

3. The corporation's program must comply with the community's development and/or housing plan (as will be defined in the Community Development bill now before the Senate and House Banking, Housing and Urban Affairs Committees).

C. FUNCTIONS OF THE CORPORATION

1. Securing abandoned housing.

a. Definition of abandoned housing.

(1) A residential property whose mortgage is federally insured or guaranteed or is held by a federally-related institution is considered abandoned when the mortgagor occupying unit has vacated the property and has defaulted on the mortgage.

(2) An apartment is considered abandoned when the mortgagor has reduced operating services substantially below an adequate level, has defaulted on the mortgage and is more than six months in arrears on real property tax payments.

(3) However, for a conventional mortgage to come under authority of the act, the mortgage must be held by a federally-related financial institution whose liquidity is affected because of the number of foreclosed mortgages it holds.

b. Taking title of abandoned property.

(1) If the corporation believes a unit meets an abandonment definition, it can ask a U.S. District Court judge or a U.S. Magistrate for an order to take possession of the property. If the court decides grounds for such a order exist, the corporation takes possession. Within 30 days, the court will hold a hearing to determine if the property should be forfeited to the corporation. If title passes to the corporation, the corporation shall pay off all financial interests existing on the property, as determined at the hearing. If the court decides that the property was incorrectly seized, the court shall fix costs, counsel fees and expenses to be paid by the corporation to the affected person.

2. HUD and VA-owned units.

a. The corporation shall acquire for the fair market price or the unpaid balance of the mortgage (but never more than the mortgage balance) all residential properties held by HUD and the VA.

3. Housing activities.

a. The corporation may, by contract or otherwise, repair, construct, or raze residential property; hold property for redevelopment, and condemn, with the approval of the appropriate local body, property for redevelopment. (Again, these activities must comply with community development plans.)

b. The corporation may buy, rent, lease, insure, maintain, exchange and sell real and residential properties.

c. Provisions of the Uniform Relocation Act apply to the corporation, which, of course, may use housing it owns to relocate families forced to move.

4. Originating and servicing mortgages.

a. The corporation may sell mortgages it originates, but it must continue to service, including counseling where appropriate, all mortgages it originates.

D. FUNDING OF CORPORATION

1. Equity capital.

a. Equity capital for the corporation would be obtained through the issuance of stock in an amount of up to $35 million to the Secretary of the Treasury who would be required to accept it. The Board of Directors of the corporation could require payments for the stock as it needed funds.

2. Additional capital.

a. Larger amounts of working capital to finance operations of the corporation would be raised through issuance of its debt obligations in the private capital market; the amounts, timing, maturities and interest rates of security issuances would all be subject to prior approval by the Secretary of the Treasury. The aggregate amount of corporate obligations outstanding at any one time could not exceed 10 times the amount of capital stock issued. This would place a statutory ceiling of $350 million on corporate borrowing authority. The latter amount, plus the $35 million in capital stock authorization would provide a total of $385 million in corporate funding. The fact that the corporation would have an equity capital safety cushion equal to 10 percent or more of outstanding debt obligations would encourage investors to buy the debt obligations. Debt obligations issued by the corporation would *not* be guaranteed by the U.S. Government.

3. Treasury back-up authority.

a. The Secretary of the Treasury is authorized to purchase up to $350 million of obligations issued by the corporation. With such Treasury back-up authority for obligations of a government corporation, there would be a moral obligation for the Treasury to make in effect, a Government loan to the corporation, to enable it to redeem its securities in the event that it did not have funds when payment was due. Similar authority has enabled FNMA and other Government-sponsored organizations to sell their securities in the capital market. In the event that Treasury found it necessary to raise funds in order to lend money to the corporation, by buying securities issued by the corporation, Treasury could sell its own (U.S. Government) bonds under authority of the Second Liberty Bond Act which is made applicable for this purpose.

It should be noted that any corporation bonds sold in the private market do not constitute a debt obligation of the United States and would not be counted under any debt ceilings. If purchases of corporation obligations by the Treasury become necessary, however, the net outlays by the Government that might be involved in any purchase and sale of such securities would become part of the U.S. public debt, subject to any existing debt ceiling.

E. TAXATION OF CORPORATION

1. The corporation is exempt from all taxes, but real and residential property held by the corporation shall be subject to the taxes of the jurisdictions in which they are located.

F. EXCLUDED FROM THE BUDGET

1. Corporation receipts and disbursements shall not be included in the budget and will be exempt from any annual budget or lending limits.

IV. PRECEDENT

A. In a sense, the Neighborhood Protection Corporation is modeled after the old Home Owners Loan Corporation, which helped home owners from defaulting on mortgages during the depression. The Home Owners Loan Corporation went out of business in 1951, showing a small profit. Hart and Cranston hope the Neighborhood Protection Corporation would do the same.

V. THE OVERALL GOAL

The idea for our approach comes from the realization that if a natural disaster had wiped out many thousands of housing units, federal aid would have been available to assist rebuilding efforts. And as had happened following some natural disasters, the rebuilding effort offered a chance to improve the community over what it had been.

That is the goal of this program . . . to help those communities suffering from the abandonment disaster to stop the spread of the disaster, to upgrade the existing housing which can be saved, and to expand the supply of new housing, with special attention paid to the needs of moderate- and low-income families.

S. 3115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Abandonment Disaster Demonstration Relief Act."

DECLARATION OF POLICY AND STATEMENT OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the abandonment of residential housing in the United States substantially burdens the flow of interstate commerce and impedes the effective utilization of the Nation's housing stock, and the health and welfare of the people of the United States is damaged by the resulting loss of housing units in many urban areas;

(2) the abandonment of such housing acts as a contagious disease when it spreads unchecked throughout neighborhoods and entire communities, resulting in the abandonment of standard as well as substandard housing in many cases;

(3) certain mortgage guaranty and insurance programs administered by agencies of the United States are relied upon by the holders of mortgages on abandoned residential properties and discourage such holders from taking reasonable corrective actions at the earliest practicable time, thereby imposing a substantial financial burden on the agencies involved in such programs; and

(4) the continued unchecked spread of housing abandonment may, in some cases, impair the financial position and liquidity of Federally-related financial institutions, and thereby result in an even greater financial burden on agencies of the United States.

(b) It is the purpose of this Act to establish a Neighborhood Protection Corporation which will have the authority, on a demonstration basis, to enter and take possession of abandoned residential properties in order to prevent the continued deterioration and destruction of neighborhoods and communities and to hold and assemble parcels of land for the orderly development and redevelopment of neighborhoods and communities.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) The term "residential property" means any real property (including improvements) which is designed for occupancy by one or more families and—

(A) which is subject to a mortgage which is insured or guaranteed by an agency of the United States; or

(B) which is subject to a mortgage held by any Federally-related financial institution.

(2) The term "Federally-related financial institution" means—

(A) any bank the deposits of which are insured by the Federal Deposit Insurance Corporation;

(B) any savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation;

(C) any thrift or home financing institution which is a member of a Federal home loan bank; and

(D) any credit union the accounts of which are insured by the Administrator of the National Credit Union Administration.

(3) A residential property shall be deemed to be abandoned if—

(A) in any case where the mortgage covering the property was executed in connection with the mortgagor's occupancy of the property, that mortgagor (i) has vacated such property, and (ii) has defaulted on the mortgage secured by the property; or

(B) in any case where the mortgage covering the property was not executed in connection with the mortgagor's occupancy of the property, that mortgagor has substantially reduced the level of operating services or other services below an adequate level, and that mortgagor (i) has defaulted on the mortgage secured by the property; and (ii) is more than six months in arrears in payment of real property taxes on such property. (4) The term "Corporation" means the Neighborhood Protection Corporation established under section 4.

ESTABLISHMENT OF NEIGHBORHOOD PROTECTION CORPORATION

SEC. 4. (a) There is established a corporation to be known as the "Neighborhood Corporation," which shall be an independent agency of the United States. Neither the Corporation nor any of its functions, powers, or duties, shall be transferred to or consolidated with any other department, agency, or establishment of the Federal Government. The Corporation shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Corporation in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(b) There shall be a President of the Corporation, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall serve as chief executive officer of the Corporation. There shall be a First Vice-President of the Corporation, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall serve as President of the Corporation during the absence or disability of or in the event of a vacancy in the office of the President of the Corporation, and who shall at other times perform such functions as the President of the Corporation may from time to time prescribe.

(c)(1) There shall be a Board of Directors of the Corporation consisting of the President of the Corporation who shall serve as the Chairman, the First Vice-President, who shall serve as Vice-Chairman, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Administrator of Veterans' Affairs, and four additional persons appointed by the President of the United States, by and with the advice and consent of the Senate. Of the nine members of the Board, not more than five shall be members of any one political party. The terms of the Directors shall be at the pleasure of the President of the United States, and the Directors, in addition to their duties as members of the Board, shall perform such additional duties and may hold such other offices in the Corporation as the President of the Corporation may from time to time prescribe. A majority of the Board of Directors shall constitute a quorum. The Board of Directors shall adopt, and may from time to time amend, such by-laws as are necessary for the proper management and functioning of the Corporation.

(2) The members of the Board who are not otherwise employed by the United States shall receive compensation for service as members at the rate provided for individuals occupying a position under level II of the Executive Schedule (5 U.S.C. 5313).

(3) No director, officer, attorney, agent, or employee of the Corporation shall in any manner, directly, or indirectly, participate in the deliberation upon, or the determination of, any question affecting his personal interests, or the interests of any corporation, partnership, or association in which he has a direct or indirect personal interest.

DEMONSTRATION PROGRAM

SEC. 5. (a) In order to provide for an effective demonstration program, the Corporation shall carry out its functions in three metropolitan housing market areas. In selecting the areas for the purpose of such demonstration, the Board of Directors should take into account the necessity for local cooperation and assistance and the extent to which appropriate local officials in any area being considered for selection have demonstrated an interest in cooperating with and assisting the Corporation in carrying out its functions. The Board of Directors shall establish policies which require the officers and employees of the Corporation to consult, on a continuing basis, with local officials and affected residents of a selected area with respect to matters of mutual interest and concern.

(b) The Corporation shall, for the purpose of the demonstration program, limit its activities to metropolitan housing market areas where the abandonment of residential property as defined in section 3 is substantial.

(c) In carrying out its functions under section 6, notwithstanding the provisions of such section, the Corporation shall

(1) comply with any applicable community development plan or program;

(2) comply with any applicable housing plan or program; and

(3) hold public hearings in any case where condemnation proceedings or a change in land use is proposed by the Corporation if such hearings are not required by local law in such a case.

(d) Upon the expiration of 5 full calendar years following the date of enactment of this Act, the Corporation may not exercise its power to acquire real property, except in the case of an acquisition in connection with a default on a mortgage held by it.

FUNCTIONS OF THE CORPORATION

SEC. 6. (a) Whenever the Corporation has probable cause to believe that a residential property is abandoned, the Corporation is authorized, on its own motion or at the request of a Government agency or a federally-related financial institution having an interest in such property, to institute proceedings in accordance with the provisions of this section to protect the interests of the United States.

(b)(1) In the case of abandoned residential property subject to a mortgage which is insured or guaranteed by an agency of the United States, the Corporation may file in the United States District Court wherein the property is located an action for forfeiture of such property to the United States, and an application for an order to seize and take possession of such property as the receiver of the court. An order to seize and take possession shall be issued only on affidavits which are sworn to before a United States District Court Judge or a United States Magistrate, and which establish the grounds for issuing the order. If the judge or magistrate finds that grounds for the application exist, or that there is probable cause to believe that they exist, he shall enter an order appointing the Corporation as the court's receiver, and directing the Corporation to seize and take possession of the property. The order shall state the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof. The order may be executed and a return made to the court only within ten days after the date of issuance. The Corporation shall execute the order and leave with any person at the premises a copy thereof and a receipt for any property taken. The Corporation shall also post a copy of the order and a receipt for any property taken. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the applicant for the order and any person at the premises, or in the presence of at least one credible person other than the applicant for the order, and shall be verified. The court shall, upon request, deliver a copy of the inventory to any person claiming an interest in any property taken and to the applicant for the order.

(2) In addition to any notice by publication, actual notice of the commencement of any such action and of the date of the bearing required by paragraph (3) shall be given by the Corporation, in such manner as the court shall direct, to (A) the person who holds title to the property, and (B) any person who has recorded an interest in the property, unless after search by the Corporation satisfactory to the court, any such person is not found.

(3) Not later than 30 days after the issuanceof an order under paragraph (1), the court shall hold a hearing on the merits to determine whether forfeiture should be ordered. If at such hearing, the court determines that the residential property has been abandoned, and that the abandonment of such property tends to constitute a danger to the community or neighborhood, the court shall order that the property be forfeited to the United States and all right, title, and interest therein shall pass to the Corporation. Any such order shall be subject to the payment of just compensation by the Corporation of an amount equal to the value of the interest of any person claiming an interest in the property as established in the hearing on forfeiture by persons or agencies having an interest. In any case in which the person or agency having such an interest is an agency of the United States, the payment by the Corporation shall be in the form of obligations issued by it.

(4) If the court finds, in any hearing on forfeiture, that a person (other than an agency of the United States) who has an interest in the property failed to protect the interests of the United States by knowingly permitting the continued deterioration of an abandoned property in which it has an interest while having the authority under law or contract to prevent such continuation, it shall give notice of such finding to any agency of the United States which has an insurance or other similar obligation with respect to the property or with respect to the person who has an interest in the property so that such agency can take appropriate action to protect the interest of the United States.

(5) If at a hearing under paragraph (3) the court determines that the residential property was not abandoned, or that the abandoned property did not tend to create a danger to the community or neighborhood, or that probable cause for an order issued pursuant to paragraph (1) did not exist, the court shall fix and allow to any person with an interest in the property, to be paid by the Corporation, the costs, counsel fees, expenses, and damages as a result of the issuance of the order to seize and take possession of the property.

(c) In the case of an abandoned residential property which is not subject to a mortgage insured or guaranteed by an agency of the United States, the Corporation may take action in accordance with subsection (b) with respect to such property only if it determines—

(1) that the mortgagee is a federally related financial institution;

(2) that the mortgagee holds a substan-

tial number of mortgages covering abandoned residential properties; and

(3) after consultation with the appropriate Federal regulatory agency, that the liquidity of the mortgagee may be affected.

(d) The Corporation shall acquire in exchange for obligations issued by it residential properties to which title is held by the Secretary of Housing and Urban Development or the Administrator of Veterans' Affairs at the fair market value of the property as of the date the title is passed to the Corporation, and the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs are authorized and directed to accept such obligations in exchange for such properties. The fair market value of the properties to be exchanged shall be determined by an appraisal made by the Corporation, but in no event shall the fair market value of the property exceed the unpaid balance of the mortgage.

(e) The Corporation may acquire real or residential properties by condemnation for the purpose of redeveloping a community or neighborhood, except that before instituting such proceedings, the Corporation shall secure the approval by resolution or ordinance of the governing body of the affected community.

(f) With respect to any real or residential properties the Corporation has acquired pursuant to this section, the Corporation may, by contract or otherwise—

(1) make plans, surveys, and investigations;

(2) demolish structures or otherwise dispose of any improvements on real or residential property;

(3) hold and assemble real and residential property for purposes of redevelopment;

(4) construct, erect, remodel, repair, and rehabilitate structures on residential property;

(5) procure necessary materials, supplies, articles, equipment, and machinery;

(6) provide approaches, utilities, and necessary community facilities;

(7) convey without cost to States and political subdivisions and instrumentalities thereof real property for streets and other public thoroughfares and easements for public purposes; and

(8) rent, lease, insure, maintain, exchange, convey, sell for cash or credit, or otherwise dispose of real or residential property, improvement or interest therein, except that if the disposition of such property involves a change in its use, the Corporation shall secure the approval by resolution or ordinance of the governing bodies of the affected units of government. Any instrument executed by the Corporation purporting to convey any right, title, or interest in any real or residential property disposed of pursuant to this subsection shall be conclusive evidence of compliance with the provisions thereof insofar as title or other interest of any bona fide purchasers, leasees, or transferees of such property is concerned.

(g) Except where the property is being disposed of in conjunction with an urban homesteading program, the Corporation shall determine that the homes it sells are in decent, safe and sanitary condition at the time of sale. In the event of a sale which does not meet this requirement, the Corporation may make expenditures to correct, or to compensate the purchaser of any dwelling for occupancy by fewer than five families for, structural or other defects which seriously affect the use and liveability of any one- to four- family dwelling, if (1) the dwelling was sold by the Corporation, (2) the purchaser requests assistance from the Corporation not later than one year after the sale, and (3) the defect is one that existed on the date of the sale and is one that a proper inspection could reasonably be expected to disclose.

(h) The Corporation may acquire in exchange for obligations issued by it, real properties, residential properties, mortgages on residential properties and other obligations and liens secured by residential properties (including the interest of a vendor under a purchase money mortgage or contract) recorded or filed in the proper office, and in connection with any such exchange, the Corporation may make advances in cash to pay the taxes and assessments on the residential property, to provide for necessary maintenance and make necessary repairs, to meet the incidental expenses of the transaction, and to pay such amounts to the holder of the mortgage, obligation, or lien acquired as may be the difference between the face value of the obligations exchanged plus accrued interest thereon and the purchase price of the mortgage, obligations, or lien, but in no event shall the purchase price of the mortgage, obligation, or lien exceed the unpaid balance thereon. Each mortgage on residential property or other obligation or lien so acquired shall be carried as a first lien or refinanced as a mortgage by the Corporation, and shall be amortized by means of monthly payments sufficient to retire the interest and principal within a period not to exceed thirty years. Interest on the unpaid balance of the mortgage shall be at a rate determined by the Corporation. The Corporation may at any time grant an extension of time to any mortgagor for the payment of any installment of principal or interest owed to the Corporation if, in the judgment of the Corporation, the circumstances of the mortgagor justifies such extension.

(i) The Corporation shall provide directly or by contract counseling on household management, property management, budgeting, and related counseling services which would assist low- and moderate-income families who purchase homes from the Corporation in improving their living conditions and housing opportunities, and in meeting the responsibilities of home ownership.

(j) Whenever the Corporation sells property improved by dwellings for occupancy by fewer than five families to a purchaser, the Corporation may originate and service the mortgage covering such property. The Corporation may sell, deal in or otherwise dispose of the mortgages it originates, but it shall continue to service all of the mortgages it originates, and may service other mortgages on properties it sells.

(k) Whenever the Corporation sells property improved for occupancy by more than four families, the Corporation may provide the services referred to in subsection (i) to low- and moderate-income families who occupy such housing, and originate and service the mortgage covering such property. The Corporation may sell, deal in, or otherwise dispose of the mortgages it originates, but it shall continue to service all of the mortgages it originates, and may service other mortgages on properties it sells. From time to time, but not less than semi-annually, the Corporation shall review the management and maintenance of any project covered by a mortgage originated by it.

POWERS OF THE CORPORATION

SEC. 7. (a) The Corporation is authorized—

(1) to sue and be sued in its own name and appear by its own counsel in any legal proceedings brought by or against it;

(2) to issue capital stock and other obligations subject to the provisions of section 8;

(3) to refinance any mortgage, obligation, or lien, and to grant an extension of time to any mortgagor for the payment of any installment of principal or interest owed to the Corporation;

(4) to employ and fix the compensation of such officers, employees, attorneys, or agents as shall be necessary for the performance of its duties under this Act, without regard to the provisions of other laws applicable to the employment or compensation of officers, employees, attorneys, or agents of the United States, except that no such officer, employee, attorney, or agent shall be paid compensation at a rate in excess of the rate provided for members of the Board;

(5) to impose charges or fees for its services where necessary with the objective that all costs and expenses of it operation shall be fully self-supporting;

(6) to issue such regulations, orders, and reports as may be necessary to carry out the provisions of this Act; and

(7) to take such other actions such as may be necessary to enable it to carry out its duties under the provisions of this Act.

CAPITALIZATION OF THE CORPORATION

SEC. 8. (a) The Board shall determine the minimum amount of capital stock in the Corporation and is authorized to increase such capital stock from time to time in such amount as may be necessary, but not to exceed in the aggregate $35,000,000. The Corporation is authorized and directed to issue and deliver to the Secretary, and the Secretary of the Treasury is authorized and directed to accept, the capital stock of the Corporation. Payments for such capital stock shall be subject to call in whole or in part by the Board and shall be made at such time or times as the Secretary of the Treasury deems advisable. The Corporation shall issue to the Secretary of the Treasury receipts for payments by him for or on account of such stock, and such receipts shall be evidence of the stock ownership of the United States.

(b) For the purposes of this section, the Corporation is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time, obligations having such maturities and bearing such rate or rates of interest as may be determined by the Corporation, with the approval of the Secretary of the Treasury, to be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations; but the aggregate amount of the obligations of the Corporation under this subsection outstanding at any one time shall not exceed 10 times the sum of the capital stock issued by the Corporation. In no event shall any such obligation be issued if, at the time of such proposed issuance, and as a consequence thereof, the resulting aggregate amount of its outstanding obligations under this subsection would exceed the amount of the Corporation's interests pursuant to this Act free from any liens or encumbrances, or property, cash, mortgages or other security holdings, and obligations issued or guaranteed by the United States, or obligations, participations, or other instruments which are lawful investments for fiduciaries, trusts, or public funds. The Corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligation, together with the interest thereon, is not guaranteed by the United States and does not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Corporation. The Corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued pursuant to subsection (b) of this section, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act

are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $350,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices that he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

TAXATION OF THE CORPORATION

SEC. 9. The Corporation, including its franchise, capital, reserve, surplus, and income shall be exempt from all taxation now or hereafter imposed by the United States or any district, territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. Any residential or other real property of the Corporation shall be subject to taxation to the same extent, according to its value, as other residential or other real property.

RECEIPTS AND DISBURSEMENTS OF CORPORATION EXCLUDED FROM THE BUDGET

SEC. 10. The receipts and disbursements of the Corporation in the discharge of its duties shall not be included in the totals of the budget of the United States Government and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on the budget of the United States Government. In accordance with the provisions of the Government Corporation Control Act, the President shall transmit annually to the Congress a budget for program activities and for administrative expenses of the Corporation, which budget shall also include the estimated annual net borrowing by the Corporation from the United States Treasury. The President shall report annually to the Congress the amount of net lending of the Corporation, including any net lending created by the net borrowing from the United States Treasury, which would be included in the total of the budget of the United States Government if the Corporation's activites were not excluded from those totals as a result of this section.

RETIREMENT OF OBLIGATIONS

SEC. 11. The Corporation shall retire and cancel its bonds and stock when its purposes under this Act have been accomplished. Upon the retirement of such stock, the reasonable value thereof as determined by the Board shall be paid into the Treasury of the United States and the receipts issued therefor shall be cancelled. The Board shall proceed to liquidate the Corporation and shall pay any surplus or accumulated funds into the Treasury of the United States. The Corporation may declare and pay such dividends to the United States as may be earned and as in the judgment of the Board it is proper for the Corporation to pay.

SEVERABILITY

SEC. 12. If any provision of this Act or any part thereof, or the application of any such provision or part to any person or circumstance, is held invalid, the remainder of the Act or provision, or the application of such provison or part to other persons or circumstances, shall not be affected thereby.

ANNUAL REPORT

SEC. 13. (a) The Corporation shall transmit to the Congress not later than March 31 of each year a detailed report on its operations and activities during the preceding calendar year.

(b) In its fourth annual report, the Corporation shall include its recommendations with respect to whether the demonstration authorized under this Act should be continued, expanded, or terminated. If the Corporation recommends a termination of the demonstration, it shall include in such report a detailed plan for the transfer of the assets, liabilities, and functions of the Corporation and for its dissolution.

Mr. CRANSTON. Mr. President, the Department of Housing and Urban Development last year published a study entitled "Abandoned Housing Research: A Compendium."

HUD states:

The very scale of the problem now demands priority consideration by both public and private officials concerned with the problems of urban areas . . . without significant public commitment to conserve neighborhoods, abandonment will worsen considerably and seriously reduce the housing and public amenities available to lower-income families.

The Department's priority consideration for housing abandonment was demonstrated early this year when HUD canceled its first and only experimental programs on housing abandonment in Baltimore, Philadelphia, and Kansas City, Mo.

The problem is too serious to put off. Abandonments sweep through urban areas leaving behind desolate and dangerous areas. According to a 1971 study by the National Urban League and Center for Community Change—

Entire central city neighborhoods housing hundreds of thousands of people are in advanced stages of being abandoned by their owners.

Yet we have no specific program to stop the housing abandonment wave from gaining momentum in city after city or to repair the destruction abandonment leaves in its wake.

My distinguished colleague from Michigan (Mr. HART) and I are today introducing specific legislation, the Abandonment Disaster Demonstration Relief Act, aimed at the housing abandonment problems.

Definitions of abandonment differ depending upon the study, Senator HART and I chose a specific, functional definition: a house is abandoned when the owner-occupant has moved out and has defaulted on his mortgage payment. A multifamily building is abandoned when the owner has reduced the level of operating services beyond an adequate level, when he has defaulted on the mortgage, and when he has not paid his property taxes in more than 6 months. Both definitions contain the common element that the owner has foresaken the use or care of his property.

Exact figures for the number of abandoned units under any definition are not at hand. The Congressional Research Service of the Library of Congress has supplied estimates, which while rough, nevertheless indicate the magnitude of the problem.

Mr. President, I ask unanimous consent that the housing abandonment figures from the Library of Congress be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT "A"

HOUSING ABANDONMENT LEVELS NATIONALLY IN 1971

City and location	Total number	Dwelling units numbers abandoned	Percent abandoned
Northeast:			
Paterson, N.J.	49,335	18,119	36.6
Utica, N.Y.	32,770	9,820	28.0
Allegheny County, Pa.	533,196	[1] 13,380	2.5
Baltimore, Md.	305,464	10,000	3.2
Erie, Pa.	42,677	4,743	11.0
Monessen, Pa.	5,320	165	3.1
Philadelphia, Pa.	673,390	[1] 23,833	3.5
Southeast:			
Jacksonville, Fla.	174,189	15,000	8.6
Owensboro, Ky.	16,927	666	3.9
Winston-Salem, N.C.	44,899	1,850	4.1
Midwest:			
Cincinnati, Ohio	172,000	4,500	2.6
Toledo, Ohio	121,000	9,100	7.5
Joplin, Mo.	15,934	360	2.2
St. Louis, Mo.	238,441	9,000	3.7
Southwest:			
Oklahoma City, Okla.	138,378	6,000	4.3
Tucson, Ariz.	89,256	9,400	10.5
West Coast:			
Oakland, Calif.	147,000	5,738	3.9
San Jose, Calif.	150,211	17,069	11.3
Portland, Oregon	152,043	[1] 4,550	2.9

[1] "This figure represents number of buildings and is a better approximation of number of dwelling units the lower is the housing density, i.e., the closer it conforms to single family dwellings." [Sic]

HOUSING ABANDONMENT LEVELS FOR ADDITIONAL SELECTED MAJOR CITIES

Year of survey, city, and level of abandonment

1973: Baltimore, 12,000 units.

1971: Birmingham, 800 units demolished; another 2,300 scheduled for demolition.

1971: Boston, 800 to 1,000 structures.

1973: Chicago, 1,100 structures, 5,000 units; Woodlawn and Lawndale sections, 20% of units.

1971: Cleveland, 2,400 units a year.

1971: Detroit, 2,000 to 3,000 structures.

1973: New York City, 100,000 units.

1973: Philadelphia, 30,000 units.

1973: St. Louis, 3,500 structures, 10,000 units; most afflicted areas, 16% of units.

1972: Washington, D.C., 1,634 structures, 3,260 units.

Mr. CRANSTON. Mr. President, even precise figures, however, would fall short of describing the full magnitude of the housing abandonment problem, a problem of social and human dimensions. Housing abandonment is a problem of poor people concentrated in overcrowded unsafe, and unsanitary housing units; of streets scarred by vandalism and fire; of neighborhoods shunned by businesses and investors; of cities with dying central cores.

The bill I offer with Senator HART does not have remedies to all these problems. Our bill does offer an approach to their solution. We propose to test a new mechanism for acquiring and disposing of abandoned property and to provide in the course of this experiment, new financial and personnel resources to localities afflicted by the disaster of large scale housing abandonment.

The new mechanism is the Neighborhood Protection Corporation, an independent agency of the United States. Its mission is to provide standard housing in place of abandoned units and healthy neighborhoods in place of blighted ones. It is also charged with the responsibility of stemming abandonment in its beginning stages.

The Corporation's field personnel will operate in localities that have requested Corporation abandonment aid. Three metropolitan areas—a major city or a central city and its suburbs—with serious abandonment problems, whose local officials evidence interest in obtaining assistance from the Corporation and who demonstrate a willingness to cooperate with the Corporation will be chosen.

The Corporation's redevelopment activities must, in return, conform with the community development or housing plans for the area. Further, if the Corporation proposes to condemn a parcel of land or modify its use, the Corporation is required to hold public hearings, should hearings not be required of the local governing body. Employees of the Corporation will consult on a continuing basis with local officials and residents in the areas where the Corporation is active.

These requirements should assure that the Corporation's activities mesh with local housing and redevelopment plans and are responsive to residents living in the abandonment disaster area.

I expect that cities with large numbers of abandoned units will want to obtain the Corporation's aid since it will supplement their own housing and community development funds and, thus, stretch the value of dollars committed to the recovery of battered central city areas.

A Neighborhood Protection Corporation against abandonment has not been tested before. In view of this, Senator HART and I limit the Corporation to a 5-year life and authorize it to operate on a demonstration basis. Congress can extend the Corporation's life after the fifth year, if it chooses.

At the end of 1973, the Veterans' Administration and the Department of Housing and Urban Development together held title to 86,315 homes. The VA owned 11,046 units; HUD, 75,269.

HUD and the VA have many other functions to perform besides maintaining the condition of and marketing foreclosed property. Officials of several California cities, most recently Los Angeles, Duarte, and Lynwood, have complained to me that Government-owned properties are poorly maintained and are a blight on the neighborhood.

I believe HUD and the VA try hard to keep up homes they have acquired through foreclosure but their resources are spread thin. A single purpose agency would not have that problem. It can move quickly to find new owners or new uses for vacant units before they become run down and before they run down a neighborhood.

HUD takes, for example, an average of 8½ months to put a property it acquires into salable condition. In the meantime, it expends $3,270 to maintain the property. But that is not the only cost. Between the time that a mortgagor has defaulted on the mortgage and the time HUD acquires the property through foreclosure, vandalism ruins many FHA insured houses. The vandalized house is an eyesore, attractive only to further vandalism and crime. To put the home back in salable condition takes a costly job of rehabilitation.

This month HUD turned over 4,901 homes to city governments for urban homesteading and other municipal purposes that were each costing HUD $4 a day to maintain and would have taken an average of $8,000 each to fix up.

Under this legislation, HUD and the VA will be divested of the responsibility of taking back property which they insured or have guaranteed. The Corporation will step in before foreclosure—but after abandonment—to ask a U.S. district court or U.S. magistrate for permission to seize the property.

Within 30 days, a court hearing would be held to determine if the property was truly abandoned and if it tends to constitute a danger to the community or neighborhood. If the court decides this is so, the Corporation obtains title to the property and pays off all persons or agencies having an interest in the property in the form of bonds issued by it. Thus, the bill establishes procedures by which the Corporation seizes and takes title to VA guaranteed or FHA insured property which is abandoned but not yet foreclosed. The Corporation—not VA or HUD—pays off the lender directly with a corporate-issued bond, bearing, in all likelihood, the FHA debenture rate.

The Corporation also has the responsibility of assuming ownership of VA and HUD properties which the agencies have acquired through foreclosure. The following table is useful to illustrate the volume of units that would be turned over to the Corporation by HUD and the VA:

Area	HUD owned	VA owned
1. Detroit	15,789	776
2. Los Angeles	5,839	2,588
3. Seattle	9,481	296
4. Philadelphia	3,998	
5. Atlanta	3,537	653
6. Chicago	2,479	443
7. Newark	1,348	439

These figures are current as of December 31, 1973.

In exchange for title to a VA guaranteed or FHA insured home, the Corporation would give the agency a bond issued by it in an amount equal to the fair market value of the property, but in no case greater than the unpaid balance of the mortgage.

In Detroit, and Philadelphia too, HUD is the largest single owner of single family homes. But in New York City only a fraction of the 100,000 abandoned units are FHA insured. The bulk of the residential debt in New York belongs to financial institutions—savings and loan associations, mutual savings banks, commercial banks, and life insurance companies.

A 1973 study on the central city and urban renewal by the Congressional Research Service of the Library of Congress states that—

> Any analysis of the reserve and surplus positions of these institutions indicates that the impact of any large-scale loan default on central city properties would be to place financial institutions in grave danger of illiquidity.

Since thousands of abandoned units are neither FHA insured or VA guaranteed and because lending institutions that hold these mortgages may be endangered, the Corporation is authorized to seize and take title to conventionally financed residential property.

The Corporation can act, however, only if the mortgagee is a federally related institution whose liquidity may be affected by its holding of substantial number of mortgages on abandoned residential units.

The procedures for seizing and taking title to conventionally financed units are the same as those prescribed for FHA and VA property.

I foresee that in many cases financial institutions that hold mortgages in dead real estate market areas will approach the Corporation in order to transfer title and receive in exchange a corporate-issued bond. On the other hand, I expect that the Corporation will carefully gage the number of mortgages it accepts, relating the volume to its ability to find new buyers and new borrowers.

If the Corporation has incorrectly seized property, the bill requires the Corporation to pay costs, counsel fees, and damages to any person having an interest in the property.

What does the Corporation do with the property it obtains? The Corporation can itself perform or contract with others to perform a broad variety of activities.

One example: The Corporation can convey to cities residential property for that city's urban homesteading program; or it can take title to city-owned property and repair, rehabilitate, rent, lease, or sell that property.

The Corporation can tear down and construct or assemble vacant land for redevelopment.

The Corporation can originate and service mortgages, foster types of ownership, such as tenant cooperatives, and counsel buyers and tenants in Corporation assisted housing on property maintenance, budgeting, and other household matters.

Senator HART and I expect the Corporation to work closely with local organizations and institutions in carrying out these activities. The Corporation's effectiveness will, I believe, be measured in good part by how much local activity spins off from the Corporation. In some areas, neighborhood development corporations and other civic groups exist that can build, renovate, and manage units. The Corporation can strengthen these efforts. In other areas, no local organization may be in place. But hopefully there too, the Corporation will generate momentum for redevelopment that will be self-sustaining.

The Abandonment Disaster Demonstration Relief Act calls for $385 million to finance the Corporation's operations, including administrative costs. The equity capital comes from the issuance of

$35 million in stock which the Secretary of the Treasury is required to buy. The Corporation is authorized to raise an additional $350 million by selling bonds in the private market. The bonds are taxable and are not guaranteed by the Federal Government; however, the Secretary of Treasury is authorized to purchase up to $350 million of the Corporation's bonds.

Investors in the Corporation's bonds will have the confidence of Treasury backup authority. Borrowers will have the benefit of a financing approach that may enable the Corporation to make below-market interest rate mortgage loans.

During its life, the Corporation will seek to repair the fabric of neighborhoods torn by housing abandonment and to stabilize those areas where abandonment is incipient. It will not be able to accomplish these goals singlehandedly.

Arresting neighborhood decline and rebuilding decayed neighborhoods are complex problems involving many players: the Federal Government, local officials, lenders, renewal and housing agencies, civic organizations, and others. The Abandonment Disaster Demonstration Relief Act is really aimed at seeing whether a single-purpose agency on abandonment can be a structure that can bring these players together and produce a cooperative effort for improving urban life.

By Mr. HATFIELD:

S. 3116. A bill to protect the individual's right to privacy by prohibiting the sale or distribution of certain information. Referred to the Committee on the Judiciary.

THE MAILING LIST BILL AND PROTECTING PRIVACY

Mr. HATFIELD. Mr. President, privacy is a very subtle concept. Not everyone agrees on what does and does not constitute an individual's right to privacy. Not everyone agrees on how to define privacy. When we have it, we take it for granted; and we place the greatest value on it when it is gone.

A $45 billion a year industry is buying and selling information about Americans. Most people do not even know this industry exists and if they do, they do not know what to do to extricate themselves from it. This is the direct mail industry which relies on the purchase and rental of lists of names to keep in buisness. Some people believe that the purchase and rental of these lists, done without the consent or knowledge of those on the list, is a violation of privacy. I am one of those who share this belief.

If you are an average American you are on an estimated 40 to 50 lists. These, in turn, are broken down into incredibly sophisticated categories and subcategories so that mail campaigns can be directed with almost frightening complex objectives. Computers have made this possible. A recent article in the Wall Street Journal pointed out that one mailing list industry catalog describes more than 22,000 available lists of great sophistication—

One company offers a list of 10,000 biochemists and other people believed to be hot prospects for "books on amino acids, peptides, chromatography and electrophoresis." Another offers a list of 56,000 people who have responded to "Fat Legs?" ads by sending $2 for a booklet on how to make legs shapelier; presumably these individuals will be receptive to a lot more products.

The lists are compiled from every imaginable source—telephone books, magazine subscription lists, credit card lists, church rosters, club membership booklets, Government agencies, newspaper announcements of birth, death, graduation, and so forth. Mailing list brokerage companies compile the lists and market them for $25 to $45 per 1,000 names. They are able to supply the would-be mail advertiser with anything he needs. The computer can instantaneously produce lists of trout fishermen or art collectors.

This computer sophistication can backfire, however, and there are a host of stories about the Little Sisters of the Poor getting mail beginning "Dear Mrs. Little." And the famous story about the letter to the Dow Jones Co., which began—

DEAR MR. JONES: How would you and the rest of the Jones family like to see a brand-new car parked in front of the Jones household at 22 Cortlandt Street? (22 Cortlandt Street is corporate headquarters for Dow Jones.)

Generally the whole process goes something like this: A company wants to advertise its product or service to a particular consumer market so it hires a direct-mail advertising firm to map a campaign. The mailing house in turn hires a mailing list broker who is an expert at getting specialized mailing lists. These rosters are usually owned by list compilers who rent or barter for one-time use. In some cases they are sold. A check is instituted to insure that the list is only used once. This is done by including dummy names and addresses on the list. If these "planted" names and addresses receive more than one mailing, the compiler knows he is being cheated.

Second only to television as an advertising medium, direct mail advertising employs about a million people directly and accounts for about 24 percent of the mail. The largest single class of mailings, accounting for slightly less than 10 percent of the total, is magazine subscription offers.

Earlier legislation put controls on sexually oriented advertisements through the mail. A person can specify in advance that he does not wish to receive this kind of mail. The law provides a penalty for mailing such advertisements to any person who has been on the Postal Service list for more than 30 days.

Additionally, the Direct Mail Advertising Association, Inc., makes a list of people who want to be removed from mailing lists. They will also put you on lists, which you can select by writing to them at 230 Park Avenue, New York, N.Y. 10017. Last year, they report, 20,396 people asked to have their names removed, and another 5,306 wanted their names added. Although this service is commendable, it does not seem to be widely known. It takes persistence and intelligence to get off mailing lists and it takes absolutely nothing to get on one.

The Wall Street Journal quoted a New York list broker who gave the following advice on how to get off mailing lists:

You have to move and leave no forwarding address. Then you have to be very careful. You can't buy a car, you can't have a phone in your own name, you can't own a house, you can't join a club, you can't join a church, you can't open a charge account. . . . He goes on and on and concludes, "You just have to fade away.

Not everyone is equally incensed over the practice of selling mailing lists. There are people who like to get "junk" mail and to shop by mail. Others do not. One gentleman, Mr. Norman W. Shibley, president of the Cleveland Bar Association, recently filed a class action suit against American Express, Playboy magazine, and others. He contends that the selling of his name and address to others constitutes an invasion of privacy and unjust enrichment to the seller.

The Secretary of Health, Education, and Welfare's Advisory Committee on Automated Personal Data Systems recently published an excellent study of the entire privacy question. In their discussion of mailing lists, they suggested that a system be implemented which would allow a person to give consent for his name to be sold or rented. This could easily be done on application forms, registration forms, and similar items, by placing a box which the individual could use to indicate whether he was willing to have information about himself, given in that particular transaction, sold or rented for other purposes without permission.

In February 1971 I introduced legislation to require the consent of the individual in order to sell or rent information about him. Today I am reintroducing the bill. With the new respectability given to the privacy issue through the determined efforts of Senator SAM ERVIN and the Senate Judiciary Committee and the attention focused by President Nixon, I am hopeful that prompt action can be taken on this bill. This simple measure could do much to restore an individual's right to control what is known about him. It could be simply implemented. It would not apply to newspapers, telephone books, or information used for law enforcement or national security purposes. In other words, true societal needs for lists could not be curtailed. As James J. Kilpatrick said in a recent editorial on the subject of privacy:

The object ought not to be to cripple government, or to deny public agencies the technological tools they need. The object should be simply to keep Big Brother in his place.

Big brother, both in the public and private realms, is becoming more real all the time. My mailing list bill is one small way to begin to pin the giant down.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at the end of these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 18, United States Code, is amended by inserting after chapter 87 a new chapter as follows:

"Chapter 88.—PRIVACY

"Sec.
"1801. Sale or distribution of personal information.

"§ 1801. SALE OR DISTRIBUTION OF PERSONAL INFORMATION.

"(a) Whoever, by any facility of interstate or foreign commerce or the mails, knowingly sells or distributes, or offers or attempts to sell or distribute—

"(1) a list of names or addresses, or names and addresses, of individuals;

"(2) information concerning the personal or financial condition or activities of an individual; or

"(3) information concerning the personal or real property of an individual;

without the consent of any individual to whom such list or information relates, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) This section shall not apply to—

"(1) any such sale, distribution, or such offer or attempt, if a Federal statute specifically authorizes the sale or distribution of that type of list or information;

"(2) any such sale, distribution, or such offer or attempt, to any department or agency of the United States Government or of any State or local government if that list or information is to be used only for law enforcement or national security purposes;

"(3) any such sale, distribution, or such offer or attempts, if the list or information constitutes only an insubstantial portion of a document, publication, newspaper, writing or other means of communication;

"(4) any such distribution of, or offer or attempt to distribute, a telephone directory which contains only names, addresses, and telephone numbers, and which is published (A) by a regulated telephone utility company (if that company does not list in such directory the name, address, or telephone number of any individual who has requested that such information not be listed), (B) by a person engaged in interstate or foreign commerce (if that person does not list in such directory the name, address, or telephone number of any individual who is not an officer or employee of that person), or (C) by a department or agency of the United States Government or of a State or local government (if that department or agency does not list in such directory the name, address, or telephone number of any individual who is not an officer or employee of a department or agency of any such government)."

(b) The table of chapters of part I of such title is amended by inserting after item 87 the following new item:

"88. Privacy ..... 1801".

By Mr. SPARKMAN (by request):

S. 3117. A bill to authorize appropriations for the Department of State and for other purposes. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a bill to authorize fiscal year 1975 appropriations for the Department of State and for other purposes.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that, at the end of my remarks, the bill be printed in the RECORD together with the letter from the Acting Assistant Secretary of State to the President of the Senate dated February 20, 1974, and the State Department's section-by-section analysis of the bill. I should point out that the original letter from the State Department transmitted only a five-section bill; representatives of the State Department subsequently requested, however, that a sixth section be added. This has been included in the bill I now introduce.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of State Appropriations Authorization Act of 1974".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. There are authorized to be appropriated for the Department of State for the fiscal year 1975, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for the "Administration of foreign affairs", $376,135,000;

(2) for "International organizations and conferences", $229,604,000;

(3) for "Internation commissions", $112,407,000; of which $94,575,000 is authorized to be appropriated for the United States Section, International Boundary and Water Commission, to undertake such measures as may be required to carry out the agreement with Mexico entitled "Permanent and Definitive Solution to the International Problem of the Salinity of the Colorado River";

(4) for "Educational exchange", $64,914,000;

(5) for "Migration and refugee assistance", $9,470,000.

SEC. 3. Appropriations made under section 2 of this Act are authorized to remain available until expended.

CERTAIN ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS

SEC. 4. In addition to amounts authorized by section 2 of this Act, there are authorized to be appropriated for the Department of State for the fiscal year 1975 such additional amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law which arise subsequent to the date of enactment of this Act.

SEC. 5. In addition to the authorization contained in section 4 of this Act, there is authorized to be appropriated not to exceed 5 per centum of each amount otherwise authorized in section 2 of this Act for urgent requirements which arise subsequent to the date of enactment of this Act.

LIMITATION ON PAYMENTS

SEC. 6. There are hereby authorized to be appropriated funds for payment prior to January 1, 1975, of United States expenses of membership in the United Nations Educational, Scientific and Cultural Organization, the International Civil Aviation Organization, and the World Health Organization notwithstanding that such payments are in excess of 25 per centum of the total annual assessment of such organizations.

FEBRUARY 20, 1974.

Hon. GERALD R. FORD,
President of the Senate,
U.S. Senate.

DEAR MR. PRESIDENT: In accordance with Section 407(b) of the Foreign Assistance Act of 1971, there is transmitted herewith proposed legislation that would authorize appropriations for the Department of State to carry out its authorities, and responsibilities in the conduct of foreign affairs of the United States during Fiscal Year 1975.

The bill provides for authorization of appropriations for (a) "Administration of Foreign Affairs", which relates to the operation of United States diplomatic and consular posts abroad and of the Department of State in the United States; (b) "International Organizations and Conferences" including contributions to meet obligations of the United States to international organizations pursuant to treaties, conventions or specific acts of Congress; (c) "International Commissions" which enables the United States to fulfill treaty and other international obligations; (d) "Educational Exchange" which is a program administering the cultural and educational exchange activities of the United States, and (e) "Migration and Refugee Assistance" which includes the United States annual contribution to the International Committee of the Red Cross and refugee assistance programs.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

Respectfully,

STANTON D. ANDERSON,
Acting Assistant Secretary for Congressional Relations.

SECTION-BY-SECTION ANALYSIS

Section 2.—This section provides an authorization of appropriations for the Department of State in accordance with the provisions of Section 407(b) of the Foreign Assistance Act of 1971. Funds are authorized to be appropriated under this legislation for the fiscal year 1975.

This section contains the authorizations for appropriations by category for fiscal year 1975. Apart from the amounts, this section corresponds to subsection 2 of Public Law 93–126, and excludes authorization for the acquisition, operation and maintenance of buildings abroad which is being submitted as separate legislation.

Paragraph (1) authorizes appropriations under the heading "Administration of Foreign Affairs" to provide the necessary funds for the salaries, expenses and allowances of officers and employees of the Department, both in the United States and abroad. It includes funds for executive direction and policy formulation, conduct of diplomatic and consular relations with foreign countries, conduct of diplomatic relations with international organizations, domestic public information activities, central program services, and administrative and staff activities. Further, it provides funds for relief and repatriation loans to United States citizens abroad and for other emergencies of the Department; and payments to the Foreign Service Retirement and Disability Fund.

Paragraph (2) authorizes appropriations under the heading "International Organizations and Conferences". This category provides the necessary funds for United States contributions of its assessed share of the expenses of the United Nations, eight specialized agenices and the International Atomic Energy Agency, six Inter-American organizations, six Regional organizations and seventeen other international organizations. The United States membership in these organizations, which has been authorized by treaties, conventions or specific Acts of Congress, constitutes an obligation for payment of its

share of the assessed budgets pursuant to the basic statutes or constitutions of the international agencies. Also included are the necessary funds for the missions which represent the United States at the headquarters of certain international organizations in which the United States has membership or participates pursuant to treaties, conventions or specific Acts of Congress. These missions maintain liaison with the international secretariats and with the delegations of other member governments at the organizations' headquarters. In addition, provision is made for funding of official United States Government participation in regularly scheduled or planned multilateral intergovernmental conferences, meetings and related activities, including international trade negotiations, and for contributions to new or provisional organizations. Included also are the expenses of Congressional delegations to international parliamentary meetings. This subsection does not include the authorization of appropriations for voluntary contributions to international organizations which are provided for in other Congressional enactments.

Paragraph (3) authorizes appropriations under the heading "International Commissions" which provides funds to enable the United States to fulfill its treaty and other international obligations with Mexico, including the expenses and operations of the American Section of the International Boundary and Water Commission, United States and Mexico; project investigations and construction on the United States-Mexican border. Most prominent among the appropriations to the U.S. Section, International Boundary and Water Commission, are those funds to be used for the resolution of the international problem of the salinity of the Colorado River. Resolution was reached in the agreement Minute No. 242 of the Commission concluded under the 1944 Water Treaty and entitled "Permanent and Definitive Solution to the International Problem of the Salinity of the Colorado River", dated August 30, 1973. This agreement settles an issue plaguing United States and Mexican relations for the past twelve years. The authorization requested provides that the U.S. Section be responsible for carrying out the provisions of the agreement, since it is the agency charged with the administration of the treaty.

Specifically, the appropriation proposed for authorization in the section would be used to:

(a) Construct a desalting complex, including a desalting plant within the boundaries of the United States and a bypass drain for the discharge of the reject stream from the plant and certain other drainage water to the Santa Clara Slough in Mexico, with the part in Mexico to be constructed by the appropriate agencies of the Government of Mexico with funds transferred through this Commission.

(b) Accelerate cooperative water management programs in the Wellton-Mohawk Irrigation and Drainage District to reduce the quantity of drain water pumped by the District and thereby enable reduction in the size and cost of the desalting complex. The measures include assistance to farmers in installing onfarm improvements to enhance irrigation efficiencies and

(c) Acquire, to the extent necessary, to further reduce the quantity of drainage flow, lands or interest in lands within the Wellton-Mohawk Division, Gila Project, to reduce the 75,000 irrigable acres authorized by the Act of July 30, 1947 (61 Stat. 628). In consideration of the purchase of irrigable lands and the associated increased cost of operation and maintenance of the irrigating system, repayment obligations of the irrigation district to the United States under existing contracts will be appropriately reduced.

The above measures will be designed and operated with the objective of carrying out the obligations under Minute No. 242 at the least overall cost to the United States.

Also included are the authorization of funds for American Sections, International Commissions, in accordance with existing treaties, for expenses of the American Section of the International Boundary Commission and the International Joint Commission, which are concerned respectively with maintenance of the United States-Canadian border, and environmental and other joint problems involving the United States and Canada. Appropriations are also authorized for expenses, including contributions, to enable the United States to meet its obligations in connection with participation in international fisheries commissions pursuant to treaties or conventions, and implementing Acts of Congress.

Paragraph (4) authorize appropriations under the heading "Educational Exchange" which provides funds to enable the Secretary of State to carry out his functions under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, as amended, and the Act of August 9, 1939. Funds appropriated under this authorization provide for the educational and cultural program of the Department of State, including the exchange of persons, aid to American sponsored schools abroad, and cultural presentations. Included also is the authorization of funds to enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 by grant to the State of Hawaii. The Center provides grants, fellowships and scholarships to qualified persons from Asia and the Pacific and Americans who work jointly on problems of mutual concern.

Paragraph (5) authorizes appropriations under the heading "Migration and Refugee Assistance" to enable the Secretary of State to provide assistance to migrants and refugees, both on a multilateral basis through contributions to organizations such as the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees, and on a unilateral basis through assistance to refugees designated by the President, as authorized by law. Also included is an authorization of funds for a contribution to the International Committee of the Red Cross pursuant to existing legislation. This subsection does not include the authorization of appropriations for special and emergency refugee relief assistance which is provided for in other Congressional enactments.

Section 3.—This section provides for the customary extension of the availability of funds beyond the end of the fiscal year, to the extent provided for in appropriation Acts, for such appropriations of the Department as "International Boundary and Water Commission, United States and Mexico—Construction", and "Migration and Refugee Assistance". This authority is required to enable the Department to retain funds appropriated for construction projects, the completion of which extends beyond a single fiscal year, and to enable the Department to meet completely the calendar year 1975 program needs for Migration and Refugee Assistance.

Section 4.—This section provides an authorization of appropriations for an expense difficult to determine in advance. Its purpose is to provide authorization of appropriations for increases in salary, pay, retirement or other employee benefits authorized by law which occur from time to time and require supplemental appropriations. The Department is requesting the flexibility to meet such additional mandatory costs without returning for increased authorizations of appropriations prior to the submission of a request for additional or supplemental appropriations.

Section 5.—This section provides authorization of appropriations for urgent activities which arise during the year and which are difficult to determine in advance. Experience has shown that unexpected international events of vital interest to the United States may necessitate urgent requests for additional appropriated funds which may be delayed because of lack of authorization. One recent example is the Middle East War and the resulting Middle East Peace Conference. Similarly, appropriations to support certain initiatives in foreign affairs such as opening a new post in East Berlin could not be obtained this past year because of lack of authorization. The limitation of 5 percent of the amounts previously authorized for each subparagraph in section 2 would allow flexibility to respond to fast-moving world events.

Section 6.—This section is needed to authorize an appropriation for and to permit payment of the United States contributions as assessed for the calendar year 1974 by the International Civil Aviation Organization (ICAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the World Health Organization (WHO). Although the language in Public Law 92–544 provided sufficient time to obtain a reduction of the U.S. assessment to 25 percent in the United Nations itself, in the Food and Agricultural Organization and in the International Center for the Study of the Preservation and Restoration of Cultural Property, special circumstances necessitate a request for an exception for one year in the case of ICAO, UNESCO, and WHO. During the debate over the 25 percent issue at the United Nations, the U.S. Delegate agreed that the United States would seek the reduction of its assessment rate in the UN Specialized Agencies 1) through the use of existing procedures and 2) by means that would not result in the increases of the percentage contributions of the members of the Specialized Agencies. As a result of this commitment, it became impossible to reduce the U.S. assessment rates to 25 percent in ICAO, UNESCO and WHO for the calendar year 1974 although progress was made.

In the case of ICAO, calendar year 1974 was the final year of a triennial assessment scale that had been adopted in 1971. Following existing procedures meant that the new assessment scale would be established in calendar year 1974 for the 1975–1977 triennium. The organization did decide, however, at an Extraordinary Assembly to set a ceiling of 25 percent "as a matter of principle" in determining its future scales of assessment.

In the case of UNESCO the biennial assessment scale for calendar years 1973 and 1974 was adopted in November 1972, before action was taken in the United Nations. Following proper procedures in UNESCO will therefore require that the reduction of 25 percent be sought in calendar year 1974 when the assessment scale for the 1975–76 biennium is under consideration.

WHO uses the latest UN scale as the basis for determining its own scale of assessments. The World Health Assembly adopted the scale of assessments for calendar year 1974 in May 1973 and therefore based its rates on the latest UN scale then available which assessed the United States at 31.52 percent. However, the U.S. assessment was reduced from 30.82 to 29.18 percent because of the admission of North Korea and East Germany following action by the Assembly to accept a 25 percent ceiling on assessments as a matter of principle. At the next World Health Assembly in May 1974 the WHO will have the UN scale at hand and will be able to apply toward reducing the U.S. rate the percentage points resulting from the admission of new members and from relative increases in national income as evidenced by the UN scale.

By Mr. SPARKMAN (by request):

S. 3118. A bill to authorize appropriations for the U.S. Information Agency, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a bill to authorize fiscal year 1975 appropriations for the U.S. Information Agency.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed at this point in the RECORD, together with USIA's section-by-section analysis of the bill.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "United States Information Agency Appropriations Authorization Act of 1974."

SEC. 2. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1975, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Number 8 of 1953, and other purposes authorized by law, the following amounts:

(1) $231,468,000 for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)," except that so much of such amount as may be appropriated for "Salaries and Expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(2) $6.770,000 for "Special international exhibitions;" and

(3) $4,400,000 for "Acquisition and construction of radio facilities."

Amounts appropriated under paragraphs (2) and (3) of this subsection are authorized to remain available until expended.

(b)(1) In addition to amounts authorized in subsection (a) of this section, there are authorized to be appropriated for the United States Information Agency such additional amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law which arise subsequent to the date of enactment of this Act.

(2) In addition to the authorization contained in Section 2(b)(1), there is authorized to be appropriated not to exceed five percentum of each amount otherwise authorized in Section 2(a) for urgent requirements which arise subsequent to the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1.—Provides that the Act may be cited as the "United States Information Agency Appropriations Authorization Act of 1974."

Section 2.—*Subsection 2(a)(1).* Authorizes appropriations to be made for salaries and expenses necessary to carry out international informational activities and programs under the United States Information and Educational Exchange Act, the Mutual Educational and Cultural Exchange Act, and Reorganization Plan No. 8 of 1953, for the fiscal year ending June 30, 1975. The portion appropriated pursuant to the special foreign currency program would be available until expended. The $231,468,000 requested is the amount now included in the President's budget for fiscal year 1975.

Subsection 2(a)(2). Authorizes appropriations to be made for expenses necessary to carry out functions under Section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, to remain available until expended, for the fiscal year ending June 30, 1975. The $6,770,000 requested is the amount now included in the President's budget for fiscal year 1975.

Subsection 2(a)(3). Authorizes appropriations to be made for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and the purchase and installation of necessary equipment for radio transmission and reception; and acquisition of land and interests in land by purchase, lease, rental or otherwise, to remain available until expended. The $4,400,000 is the amount included in the President's budget for fiscal year 1975 for present action. The request will cover maintenance and repair of existing facilities; modification of the antennas at the Agency's West Coast plants; and continued technical research.

Subsection 2(b)(1). Federal pay raises and other laws or Executive Orders will require increased costs on the part of the Agency. In order to provide funds for such requirements, Section 2(b)(1) authorizes increases in appropriations.

Subsection 2(b)(2). Authorizes an amount not to exceed five per centum of each amount otherwise authorized to be appropriated by Section 2(a) in order to meet urgent requirements arising subsequent to the date of enactment of this Act. For example, it is anticipated that the present worldwide petroleum difficulties may result in substantial increases in costs to the Agency for which additional funds will be necessary.

Section 3.—Amends section 1008 of the United States Information and Educational Exchange Act of 1948 to require annual reports to the Congress. Semi-annual reports are required at present.

By Mr. SPARKMAN (by request):

S. 3119. A bill to amend the Department of State Appropriations Authorization Act of 1973 and the Foreign Service Buildings Act, 1926. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, on January 21, Senator FULBRIGHT introduced by request two bills, S. 2872 and S. 2873, to authorize supplemental fiscal year 1974 appropriations for the State Department and Foreign Service Buildings. Subsequently, the administration forwarded still another fiscal year 1974 supplemental authorization request for the State Department to cover the increased payments into the Foreign Service Retirement and Disability Fund required by recently enacted law. For purposes of simplicity and clarity, the staff of the Committee on Foreign Relations has combined all of these requests into a single bill, which I am now introducing for referral to the committee. This combined bill includes all of the fiscal year 1974 supplemental administration requests relating to the State Department and Foreign Service Buildings. Its unity will enable the committee to deal with these requests more expeditiously.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Department of State Appropriations Authorization Act of 1973 (87 Stat. 451) is amended as follows:

(1) In section 2(a)(1) thereof, providing authorization of appropriations for the "Administration of Foreign Affairs", strike out "$282,565,000", and insert in lieu thereof "$304,568,000".

(2) In section 2(a)(2) thereof, providing authorization of appropriations for "International Organizations and Conferences", strike out "$211,279,000" and insert in lieu thereof "$212,777,000".

(3) In section 2(b)(1) thereof, providing authorization of appropriations for increases in salary, pay, retirement or other employee benefits authorized by law, strike out "$9,328,000" and insert in lieu thereof "$16,711,000".

SEC. 2. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(98) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State."

(b) Section 5316(109) of such title 5 is repealed.

SEC. 3. Subsection (g) of section 4 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295), is amended as follows:

(1) In subparagraph (1)(A), strike out "$590,000" and insert in lieu thereof "$631,000".

(2) In subparagraph (1)(C), strike out "$160,000" and insert in lieu thereof "$204,000".

(3) In subparagraph (1)(E), strike out "$2,218,000" and insert in lieu thereof the figure "$2,287,000".

(4) In subparagraph (2), strike out "$45,800,000" and "$21,700,000" and insert in lieu thereof "$48,532,000" and "$23,066,000", respectively.

By Mr. SPARKMAN (for himself and Mr. HARTKE):

S. 3120. A bill to bring certain employees of the Department of Defense within the purview of the competitive civil service, and for other purposes; and

S. 3121. A bill to amend title 5, United States Code, to include as creditable service for purposes of the civil service retirement system certain periods of service of civilian employees of nonappropriated fund positions in special services recreation and morale programs of the Armed Forces. Referred to the Committee on Post Office and Civil Service.

Mr. SPARKMAN. Mr. President, for Senator HARTKE and myself, I introduce for appropriate reference two bills, together with a section-by-section analysis of each bill. I ask unanimous consent that each of these bills, together with the section-by-section analyses, be printed in the RECORD.

There being no objection, the bills and analyses were ordered to be printed in the RECORD, as follows:

S. 3120

A bill to bring certain employees of the Department of Defense within the purview of the competitive civil service, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense shall provide a program (hereinafter referred to as the "special serv-

ices program") for the morale, recreation, welfare, and mental, physical, and cultural improvement of personnel of the Armed Forces.

SEC. 2. (a) The Secretaries of the military departments shall employ the personnel (hereinafter referred to as "special services employees") necessary to carry out the special services program in accordance with appropriate regulations.

(b) Paragraph (14) of section 5102(c) of title 5, United States Code, is amended by inserting "(other than special services employees of the Department of Defense)" immediately following the word "employees" where first occurring in such paragraph.

SEC. 3. To the maximum extent possible special services employees shall be paid from funds appropriated for the purpose of payment of their rates of basic pay. Payment of personnel from available nonappropriated funds to supplement personnel paid from appropriated funds is recognized as a practice which may be used to support the special services program.

SEC. 4. Section 8332(c) of title 5, United States Code, shall not apply to special services employees paid from nonappropriated funds, past or present. Nothing in this Act shall be construed to apply to the other employees of the Federal instrumentalities enumerated in section 2105(c) of title 5, United States Code, or to employees engaged in other retail sales activities, or self-supporting activities.

SEC. 5. (a) Special services employees who have had at least three years on nonappropriated funds and have an eligible rating on appropriate civil service registers and are recommended by authorities of the employing agency, may transfer to a position of the same level of duties and responsibilities in the competitive civil service and be placed in the appropriate grade of the General Schedule at basic pay rates determined as follows: The rate of basic pay to which the employee is entitled beginning on the date of the transfer shall be adjusted as follows:

(1) If the rate of basic pay to which the employee was entitled on the day before the date of the transfer is the same as a rate of the grade of the General Schedule in which the position is placed, the employee shall receive that rate.

(2) If the rate of basic pay to which the employee was entitled on the day before the date of the transfer falls between two rates of the grade of the General Schedule in which the position is placed, the employee shall receive the higher rate.

(3) If the rate of basic pay to which the employee was entitled on the day before the date of the transfer is higher than the highest rate of the grade in which his position is placed, the employee shall continue to receive the rate to which he was entitled on the day before such date.

(b) The rates of basic pay of employees whose respective rates on the day before the date of their transfers were less than the minimum scheduled rate of the grade in which their positions are placed, and of employees appointed on or after the date of enactment of this Act, shall be determined in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(c) In determining whether an employee is entitled to a step-increase or increases under section 5335 of title 5, United States Code, service as a special services employee prior to the date of enactment of this Act is deemed Federal service. Nothing in this Act shall be construed so as to reduce the rate of basic pay of any employee.

SEC. 6. For the purposes of subchapter I (relating to annual and sick leave) of chapter 63 of title 5, United States Code, service as a special services employee paid from nonappropriated funds prior to the date of enactment of this Act shall be included in computing the rate of accrual of annual leave, and the annual and sick leave to the credit of the employee shall be transferred to his credit in accordance with the regulations governing crediting of leave upon transfer from a different leave system.

SEC. 7. Service rendered prior to the date of enactment of this Act as a special services employee shall be included in computing length of creditable service for the purposes of subchapter III (relating to civil service retirement) of chapter 83 of title 5, United States Code, when—

(1) the employee has to his credit a total period of not less than three years of allowable service under such subchapter III, including service allowable under this section; and

(2) the employee shall have deposited, with interest into the Civil Service Retirement and Disability Fund an amount computed in accordance with section 8334(c) of title 5, United States Code.

SEC. 8. Credit for years of service performed as a special services employee paid from nonappropriated funds will be computed for purposes of seniority toward promotion and appointment to higher levels of responsibility in the military services morale, recreation, and welfare programs.

SEC. 9. Special services personnel paid from nonappropriated funds will be eligible to participate in career and/or referral programs established for Librarians (GS 1410), and Specialists in Sports (GS 030 series), Arts and Crafts (GS 1056 series), Music (GS 1051 series), Theater (GS 1054 series), Recreation (GS 188 series), and Outdoor Recreation Planning (GS 023 series). As careerists they may be considered for job referrals and priority placement to vacant positions for which they are eligible on appropriate civil service registers.

SEC. 10. The United States Civil Service Commission shall issue regulations to carry out the purposes of this Act in behalf of special services personnel of the Armed Forces.

SECTION-BY-SECTION ANALYSIS

Section 1—Directs the Secretary of Defense to provide a program for the morale, recreation, welfare, and mental, physical, and cultural improvement of personnel of the Armed Forces. Provides that such program be referred to as the "special services program".

Section 2—Directs the Secretaries of the military departments to employ the necessary personnel to carry out the purposes of this program in accordance with appropriate regulations. Extends the Civil Service Pay and Allowance classification system to the employees of the special services program (amends 5 U.S.C. 5102(c)(14)).

Section 3—Requires to the maximum extent possible that special services employees shall be paid from funds appropriated for the purpose of payment of their rates of basic pay but recognizes as a practice which may be used to support the special services program the payment of personnel from available nonappropriated funds to supplement the program.

Section 4—Provides that 5 U.S.C. 8332c (creditable service for military service for Civil Service retirement purposes) shall not apply to special services program employees paid from nonappropriated funds, past or present. Provides that nothing shall be construed to apply to the other employees of the Federal instrumentalities enumerated in 5 U.S.C. 2105(c) or to employees engaged in other retail sales, activities, or self-supporting activities. [employees enumerated in 5 U.S.C. 2105(c) and not applicable to this Act are as follows:

"Employees paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ships States Ashore, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, and other instrumentalities of the United States under the jurisdiction of the Armed Forces conducted for the comfort, pleasure, contentment and mental and physical improvement of personnel of the armed forces]."

Section 5—Permits employees under the program established by this bill who have had at least 3 years and an eligible rating on appropriate civil service registers and are recommended by authorities of the employing agency to transfer to a position of the same level of duties and responsibilities in the competitive civil service and be placed in the appropriate grade of the General Schedule at basic pay rates determined as follows:

(1) If the rate of basic pay to which the employee was entitled on the day before the date of the transfer is the same as a rate of the grade of the General Schedule in which the position is placed, the employee shall receive that rate.

(2) If the rate of basic pay to which the employee was entitled on the day before the date of the transfer falls between two rates of the grade of the grade of the General Schedule in which the position is placed, the employee shall receive the higher rate.

(3) If the rate of basic pay to which the employee was entitled on the day before the date of the transfer is higher than the highest rate of the grade in which his position is placed, the employee shall continue to receive the rate to which he was entitled on the day before such date.

Section 5(b)—Provides that the rates of basic pay of employees whose respective rates on the day before the date of their transfers were less than the minimum scheduled rate of the grade in which their positions are placed, and of employees appointed on or after the date of enactment of this Act, shall be determined in accordance with the provisions of title 5 of the United States Code relating to classification and General Schedule pay rates.

Section 5(c)—Deems as Federal service any service as a special services employee prior to the date of enactment of this Act for the purposes of determining whether such employee is entitled to a step-increased or increases under 5 U.S.C. 5335.

Section 6—Provides that service as a special services employee paid from nonappropriated funds prior to the date of enactment of this Act shall be included in computing the rate of accrual of annual leave for civil service employees. Provides that the annual and sick leave to the credit of the employee shall be transferred to his credit in accordance with the regulations governing crediting of leave upon the transfer from a different leave system.

Section 7—Provides that service rendered prior to the date of the enactment of this Act as a special services employee shall be included in computing length of creditable services for purposes of the civil service retirement system if: 1) the employee has to his credit a period not less of 3 years of allowable service; and 2) the employee deposits the necessary contributions in accordance with 5 U.S.C. 8334(c).

Section 8—Provides that credit for years of service performed as a special services employee paid from nonappropriated funds will be computed for purposes of seniority toward promotion and appointment to higher levels of responsibility in the military services morale, recreation, and welfare programs.

Section 9—Makes special services personnel paid from nonappropriated funds eligible to participate in career and/or referral programs established for Librarians (GS 1410) and Specialist in Sports (GS 030 series), Arts and Crafts (GS 1056 series), Music (GS 1051 series), Theater (GS 1054 series), Recreation

(GS 188 series), and Outdoor Recreation Planning (GS 023 series). Permits such employees to be considered for job referrals and priority placement to vacant positions for which they are eligible on appropriate civil service registers.

Section 10—Directs the Civil Service Commission to issue regulations to carry out the purposes of this Act in behalf of the special services personnel of the Armed Forces.

S. 3121

A bill to amend title 5, United States Code, to include as creditable service for purposes of the civil service retirement system certain periods of service of civilian employees of nonappropriated fund positions in special services recreation and morale programs of the Armed Forces

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2105(c) of title 5, United States Code (relating to the exemption from laws administered by the Civil Service Commission of civilian employees of nonappropriated fund instrumentalities under the Armed Forces), is amended by striking out "An employee paid from nonappropriated funds" and inserting in lieu thereof "Except as provided in subchapter III of chapter 83 of this title, an employee paid from nonappropriated funds".

SEC. 2. Section 8332(b) of title 5, United States Code (relating to creditable service for civil service retirement purposes), is amended—

(1) by striking out the word "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu of the period a semicolon and the word "and"; and

(3) by adding immediately below paragraph (9) the following new paragraph:

"(10) subject to sections 8334(c) and 8339(1) of this title, service—

"(A) performed by an employee paid from nonappropriated funds to conduct off-duty special services recreation and morale programs of arts and crafts, drama and music, library service, sports and recreation (service clubs, youth activities and outdoor recreation) for the constructive development, relaxation, and mental and physical improvement of personnel of the Armed Forces; and

"(B) not constituting 'employment' for purposes of title II of the Social Security Act.".

SECTION-BY-SECTION ANALYSIS

Section 1—This section is a technical amendment to 5 U.S.C. 2105(c) (relating to the exemption from laws administered by the Civil Service Commission of civilian employees of nonappropriated fund instrumentalities under the Armed Forces) so as to permit creditable service to such employees as provided by specific sections in subchapter III of chapter 83 of title 5 (relating to civil service retirement creditable service, 5 U.S.C. 8301–8348).

Section 2—Makes 3 amendments to 5 U.S.C. 8332(b) which relates to creditable services for civil service retirement purposes.

Amendment No. 1—this amendment is a technical amendment. It strikes out the word "and" after clause (8) of 5 U.S.C. 8382(b).

Amendment No. 2—this amendment is only a technical amendment. It strikes out the period at the end of clause (9) and inserts in lieu thereof a semicolon and the word "and".

Amendment No. 3—adds after clause (9) a new clause (10). Extends creditable service for the civil service retirement system to all service performed by an employee paid from nonappropriated funds to conduct off-duty special services, recreation and morale programs of arts and crafts, drama and music, library services, sports and recreation (service clubs, youth activities, and outdoor recreation) for the constructive development, relaxation and mental and physical improvement of personnel of the Armed Services. Provides that this Act does not constitute "employment" for purposes of title II of the Social Security Act (Federal Old-Age, Survivors, and Disability Insurance Benefits).

By Mr. HUMPHREY:

S. 3123. A bill to establish a universal food service program for children. Referred to the Committee on Agriculture and Forestry.

A UNIVERSAL CHILD NUTRITION PROGRAM

Mr. HUMPHREY. Mr. President, I offer for introduction today the Child Nutrition Act of 1974, a bill to establish a universal food service and nutrition education program for children.

This is a truly comprehensive bill. It would provide that every child attending a school or child care program would receive at least one nutritious meal a day without cost. The same child who is now entitled to free transportation to school, free textbooks, and free instruction in all manner of subjects would be likewise entitled to a free lunch at school.

Passage of this bill would eliminate once and for all the degrading procedure of singling out certain children as eligible for a free lunch, and certain other children as eligible for a reduced price lunch, while still others, because of higher family incomes, are required to pay the full price. Further, in this procedure we are, in effect, requiring school officials to perform a welfare function when their real business is education. And, the paperwork and administrative costs of sending out application forms to all parents, and processing and evaluating the applications, has become enormously time consuming and expensive.

The first major purpose of the bill, therefore, is to provide that all children have access to the food they need for good nutrition and good health.

The second purpose of the bill, and equally important, is to provide for the establishment of a sound nutrition education program in all of our schools across the country. The health and nutritional experts from throughout this country have concluded, based upon scientific studies and surveys, that income alone is no guarantee of good child nutrition. Children from well-to-do homes often suffer as much from malnutrition as do children from low-income families.

Furthermore, the importance of good nutrition can be seen in the impact it has on the ability of students to learn, to maintain better health, to reduce absenteeism and lower the dropout rate.

There is little question that the teaching of the principles of good nutrition has been largely neglected in the Nation's educational system. We find poor diets or less than adequate diets prevalent in all segments of the population, regardless of income. To correct the situation, there is an urgent need to incorporate nutrition education in various phases of the educational system. It need not be a separate course of instruction but can be given appropriate attention in hygiene classes, the home economics class, geography class, physical education, and so on.

Clearly, it is time that Congress should express national leadership in stimulating and encouraging a positive program to eliminate one major cause of poor nutrition—simple ignorance of the basic principles of good nutrition and its importance to good health.

The bill I am introducing today is a logical extension of S. 2593, which I introduced in the 92d Congress, and S. 1063, introduced about a year ago. While those bills proposed important improvements in the Child Nutrition and School Lunch Acts, the bill I introduce today takes the long-overdue full stride to establish a truly universal school food and nutrition education program.

Among its chief provisions, this bill would:

Provide for pilot programs in at least 10 school systems during the first year the act was in effect.

Establish a National Advisory Council on Child Nutrition, composed of 19 members from all phases of the school nutrition field, including State and local program administrators, parents and students, and representatives of the Department of Agriculture.

Provide $200 million per year for agricultural commodity purchases to be distributed through the program, and $100 million for school food service equipment and facilities.

Provide for establishment of child nutrition education services within each State education agency, as part of a full-scale nationwide program to teach our children about proper food and nutrition.

Provides the mechanics for the universal free school lunch program itself, in all public schools and to the greatest extent possible in the private, nonprofit schools as well.

In the past, we have elected to have "free" public education, "free" textbooks, and "free" schoolbuses, because they are regarded as components of a vital public interest. But clearly, none of these are free—they are paid for from taxes collected on property and incomes.

The public interest now demands that the nutrition needs of all our children be served. There is no reason whatever that proper nutrition for children cannot also be financed through public revenues.

In closing, I would like to quote from a respected professor of nutrition, Dr. George M. Briggs of the University of California, on the subject of a universal food service and nutrition education program for children:

> I consider our nation's school food service programs to be the first line of defense in the battle against malnutrition—at least until the time when some of the other lines of defense can be better drawn.
>
> Until all the recommendations of the recent White House Conference on Food, Nutrition and Health can be fulfilled, we have no better alternative, it seems to me, than to provide "free" food services for all of our nation's 50 million children in our schools. This should be provided as part of the total educational experience in quiet lunchrooms, with adequate facilities and staffs, and with far more interest and cooperation of teachers, administrators, and

parents. I feel that the cost to society of free school lunches, in the long run, is far less than the costs of poor health and development of children when lunches are not provided.

By Mr. BAKER (by request):

S. 3124. A bill to increase the size of the Executive Protective Service. Referred to the Committee on Public Works.

Mr. BAKER. Mr. President, I send to the desk for appropriate referral legislation proposing to enlarge the Executive Protective Service.

The Executive Protective Service was established by Congress in 1970 with the passage of Public Law 91–217. That law broadened the mission of the old, 250-man White House police force, expanding both its manpower to 850 and its responsibility to take in protection of foreign embassies. Until adoption of Public Law 91–217, embassies had been protected by the Metropolitan Police Force of the District of Columbia.

This bill, which I am introducing at the request of the Department of the Treasury, would increase the Executive Protective Service's authorized manpower level to 1,200. According to the transmittal letter from Treasury Secretary Shultz, the increase in size is needed to augment protection of foreign embassies. Such an improvement could also lead, the letter indicates, to better protection for our own embassies abroad.

The points made by the administration merit the attention of the Congress, and I know that the Committee on Public Works will give this proposal careful attention.

I ask unanimous consent that a copy of the bill, together with the administration's letter, be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 203 of title 3, United States Code, is amended by striking out "eight hundred and fifty" and inserting in lieu thereof "twelve hundred".

THE SECRETARY OF THE TREASURY,
Washington, D.C., November 27, 1973.

HON. JAMES O. EASTLAND,
President pro tempore of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To increase the size of the Executive Protective Service."

The purpose of the proposed legislation is to increase the limit on the numerical strength of the Executive Protective Service from 850 to 1200 members.

Public Law 91–217, approved March 19, 1970, changed the name of the White House Police force to the Executive Protective Service and added to its responsibilities the protection of foreign diplomatic missions located in the Washington metropolitan area and foreign diplomatic missions located outside the metropolitan area on case-by-case basis as the President may direct. Public Law 91–217 also increased the size of the force to its present limit of 850 members to meet the new responsibilities. The addition of the protection of foreign diplomatic missions to the duties of the force and the increase in its size were in recognition of the obligation of the United States as the host government, under international law and practice, to take reasonable precautions to assure the safety of foreign diplomatic officials and embassies of foreign governments.

The protection of foreign diplomatic missions became operational during 1970 soon after that function was vested in the Executive Protective Service. At the time, it was considered that a force of 850 uniformed police could fulfill the existing responsibilities and the added responsibility of the protection of foreign diplomatic missions. However, shortly thereafter an increasing number of foreign governments expressed their concern over the degree of protection afforded their diplomatic personnel and their missions. Within a year, requests for protective service had risen so rapidly that it was not possible to fulfill the demands with the existing force. The trend has continued and from 1971 to 1973 requests from the State Department for protective services have increased as follows: fixed posts, 72 to 168; Blair House, 8 to 14; short beats, 9 to 24; special protective attention, 92 to 171; and diplomatic receptions, 132 to 427.

The growth in the requests for the services of the Executive Protective Service is directly related to the increasing number of world-wide politically motivated terrorist acts, and to some extent, the number of criminal acts victimizing embassies and personnel in the Washington area. To illustrate, the following criminal incidents were reported by the foreign embassies in the metropolitan area during the period from August 20, 1970 to August 31, 1973: 25 breaking and enterings; 4 bombings; 92 bomb threats; 6 assaults; and 24 larcenies. During this same period, the world experienced the assassination of members of the Israeli Olympic Team, the murder of two of our diplomats in Sudan, the shooting of Colonel Josef Alon, and a rash of politically motivated kidnappings. As the host country, we must do our utmost to prevent the victimization of foreign missions and their personnel and the proposed increase in the size of the Executive Protective Service is designed to assist in accomplishing that goal.

The cost of the proposed legislation is estimated at approximately $3,500,000 for the remainder of fiscal year 1974, $7,500,000 in fiscal year 1975, and $8,000,000 for each of the succeeding three fiscal years.

It would be appreciated if you would lay the draft bill before the Senate. An identical bill has been transmitted to the Speaker of the House of Representatives.

The Department has been advised by the Office of Management and Budget that there would be no objection to the presentation of this legislation to the Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely yours,

GEORGE P. SHULTZ.

By Mr. STEVENSON:

S. 3125. A bill to amend section 4(s) of title I of article I of the District of Columbia Income and Franchise Tax Act of 1947, as amended. Referred to the Committee on the District of Columbia.

Mr. STEVENSON. Mr. President, I am today introducing legislation to amend the District of Columbia Income and Franchise Tax Act to close an apparent loophole in the definition of a "resident" subject to the District income tax.

Most Americans were shocked last December when Mr. Nixon revealed the data relating to his taxes. He, the President of the United States, making a salary alone of $200,000 paid $792 in income tax for 1970. That amount of tax is comparable to what a single person whose adjusted gross income is just over $4,400 pays.

Several questions have been raised in regard to Mr. Nixon's Federal taxes, and some of those questions are now before the Joint Committee on Internal Revenue Taxation.

But most outrageous of all was Mr. Nixon's failure to pay a California or a District of Columbia income tax. Mr. Nixon, although he claims to be domiciled in California, apparently claimed that he was not a domiciliary of California for purposes of its State income tax. This was confirmed for him by a February 1 ruling by Martin Huff of California's Franchise Tax Board. In the District, Mr. Nixon escaped income taxes by a loophole in the District's tax code.

The Congress cannot speak for the State of California and its jurisdiction over Mr. Nixon's taxes. But the Congress does have responsibility for the tax code of the District of Columbia. I am therefore introducing legislation to close this loophole in the District's tax code, Mr. Nixon's loophole. I regret the necessity of this legislation. Most, if not all, other elected officials residing in the District permit no question to arise about their compliance with the laws of the States. They pay income taxes in their home States.

The scheme of the District's tax law is as follows: the District taxes only a "resident," and it basically defines a "resident" as "every individual domiciled within the District on the last day of the taxable year, and every other individual who maintains a place of abode within the District for more than 7 months of the taxable year." And although there are other sections of the D.C. Code which affect "nonresident" corporations, estates, and trusts which have income originating in the District, nonresident individuals are not taxed. Thus the Virginian or Marylander who works in the District is not subject to the District's income tax.

If the above sentence relating to the District Code definition of "resident" were all there were to the definition, then Mr. Nixon would have been subject to the tax, because he "maintains a place of abode within the District for more than 7 months of the taxable year"—the White House. But there are certain exceptions to the definition. The code goes on to state that:

> The word "resident" shall not include any elective officer of the Government of the United States or any employee on the staff of an elected officer in the legislative branch of the Government of the United States if such employee is a bona fide resident of the State of residence of such elected officer, or any officer of the executive branch of such Government whose appointment to the office held by him was by the President of the United States and subject to the confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, unless such officers are domiciled within the District on the last day of the taxable year.

Mr. Nixon, of course, presently fits into the first exception, for he is an "elective officer of the United States."

It seems to me that Congress intent was clear when enacting the exceptions: it recognized there were people who came to the District to represent a constituency, and that they should be allowed to keep their identification with that constituency unless they chose otherwise. In this case the identification was a domicile for income tax purposes. Thus, if a Senator from Illinois—who of course had to keep his domicile in Illinois—wished also to pay his income tax in Illinois, he could do so. Likewise for employees of Senators and Congressmen, but only if they were bona fide residents of the State their employer resided in. And likewise for certain high level executive branch employees brought to Washington to serve at the pleasure and will of the President. It should be pointed out that if under the law any individual in these excepted classes chose the District as his domicile, that individual would lose his exemption from the D C. income tax.

A corollary of this congressional intent must have been that these classes of excepted or exempted people would be subject to the income tax laws of the State they chose as their domicile. This would apply even if the State had no income tax, for if it didn't, then the exempted individual would be treated no differently by it than any other domiciliary of that State under that State's laws.

It was not intended, in my opinion, to allow anyone to escape both the District's income tax and the income tax of the "other" jurisdiction by using the exception to avoid the D.C. tax and then use D.C. residency as a means of avoiding the income tax of another jurisdiction.

I doubt if others have taken advantage of this loophole as has Mr. Nixon. I have not. And from my conversations with D.C. accountants and Members of the Congress it would seem that few, if any, have ever entertained such a devious notion.

Whatever the extent of tax evasion in the District, the loophole should be closed.

To close it, I would add one sentence to the District's definition of "resident." This sentence would not allow the exceptions to operate as to those elective or appointive officers, or the enumerated employees, who were domiciled in a State which had an income tax but which did not subject the affected officer or employee to that income tax.

This change would not affect those officers or employees presently excepted who are domiciled in a State which does not have an income tax.

It also would not affect those who are or would be excepted who come from a State which has an income tax and who are subject to that tax.

It would affect those who want it both ways—no tax either in the District or the State of their supposed domicile.

As Mr. Nixon himself stated in a tax message he sent to Congress in 1969:

Special preferences in the law permit far too many Americans to pay less than their fair share of taxes. Too many others bear too much of the tax burden.

I agree. This law will require Mr. Nixon—and any others like him—to pay if not a "fair share" at least some State taxes. That is not so much to expect of the President of the United States.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(s) of title I of article I of the District of Columbia Income and Franchise Tax Act of 1947, as amended (D.C. Code, sec. 47–1551c (s)), is amended by adding at the end thereof the following new sentences: "The preceding sentence shall not apply, for any taxable year, to any such elective or appointive officer, or employee referred to therein, who during such taxable year, is domiciled in a State which imposes a tax on the personal income of individuals domiciled therein but with respect to which such officer or employee is not subject during that taxable year."

SEC. 2. The provisions of the first section of this Act shall be effective with respect to taxable years commencing on or after January 1, 1974.

ADDITIONAL COSPONSORS OF BILLS

S. 147

At the request of Mr. INOUYE, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 147, to amend chapter 34 of title 38, United States Code, to extend the time period within which veterans may be entitled to educational assistance under such chapter after their discharge or release from active duty.

S. 1419

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 1419, to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex.

S. 2650

At the request of Mr. CRANSTON, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 2650, the Solar Home Heating and Cooling Demonstration Act of 1973.

S. 2658

At the request of Mr. Moss, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 2658, directing the National Aeronautics and Space Administration to provide, in cooperation with other Federal agencies, for the early commercial demonstration of the technology of solar heating and for the development and commercial demonstration of technology for combined solar heating and cooling.

S. 2662

At the request of Mr. FULBRIGHT, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 2662, a bill to authorize appropriation for U.S. participation in the International Ocean Exposition '75.

S. 2690

At the request of Mr. MUSKIE, the Senator from California (Mr. TUNNEY) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 2690, a bill to amend title XVIII of the Social Security Act to liberalize the conditions under which posthospital home health services may be provided under part A thereof, and home health services may be provided under part B thereof.

S. 2801

At the request of Mr. PROXMIRE, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 2801, the bill to amend the Food, Drug, and Cosmetic Act.

S. 2868

Mr. FULBRIGHT. Mr. President, it is with great pleasure that I join the distinguished Senator from Idaho (Mr. CHURCH) in cosponsoring the Older Americans Tax Counseling Assistance Act, S. 2868.

Anyone who prepares a tax return, regardless of his age or intelligence, is likely to encounter some difficulty. But for older Americans, these problems are usually intensified.

In general, they are likely to be subject to new and more complicated rules than younger Americans. Typically during their preretirement years their income consisted almost exclusively of wages and some interest.

But upon reaching age 65, the elderly taxpayer may receive a pension from his employer. This, in turn, may cause complicated computations beyond his comprehension, especially if he has had little or no experience in tax matters. It may be necessary, for example, to determine his "expected return," which may be based upon annuity life expectancy tables. He must then determine the taxable portion of his annuity.

The net impact is that many older Americans are literally overwhelmed by the tax law.

It is no wonder that large numbers overpay their taxes each year. In fact, some leading witnesses have informed the Senate Committee on Aging that perhaps one-half of all older Americans pay more taxes than the law requires.

Since many aged persons are already struggling on limited incomes, they can ill afford to make these costly errors.

And, this is why I consider it crucial that an Older Americans Tax Counseling Assistance Act be enacted as soon as possible.

A major purpose of this legislation is to build upon the enormously successful tax-aide for the elderly project, which is now conducted jointly by the National Retired Teachers Association, the American Association of Retired Persons, and the Internal Revenue Service.

Under this arrangement local NRTA and AARP coordinators select elderly tax consultants, who receive intensive training under the direction of the Internal Revenue Service.

These tax consultants then counsel other elderly taxpayers on tax relief measures—such as the medical expense deduction, the excludable portion of a gain on the sale of a personal residence, the retirement income credit, and many others—which can save them precious dollars.

In my own State of Arkansas, there are 252,000 persons 65 or older, or 12.7 percent of our entire population. Arkansas now ranks second in the United States

in terms of percentage of persons in the 65-plus age category.

We regard our elderly population as a great resource. And above all, we believe that they should be entitled to every legitimate deduction, credit, and exemption which the law allows.

The Older Americans Tax Counseling Assistance Act would be an important step to assure that this goal becomes a reality.

For these reasons, I urge prompt approval of this urgently needed measure.

S. 2900

At the request of Mr. MONTOYA, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2900, a bill to improve the safety of motor vehicle fuel systems.

S. 2992

At the request of Mr. HUMPHREY, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2992, the Modern Congress Act of 1974.

S. 3006

At the request of Mr. PROXMIRE, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 3006, a bill to require that certain bills and joint resolutions introduced in the Senate or received by the Senate from the House of Representatives be printed with a "fiscal note."

S. 3073

At the request of Mr. Moss, the Senator from Texas (Mr. BENTSEN) and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 3073, a bill to amend the Higher Education Act of 1965 with respect to certain determinations concerning expected family contributions for basic educational opportunity grants.

S. 3096

At the request of Mr. CRANSTON, the Senator from Wisconsin (Mr. NELSON) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 3096, a bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage.

DISAPPROVAL OF PAY RECOMMENDATIONS OF THE PRESIDENT—AMENDMENT

AMENDMENT NO. 998

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the resolution (S. Res. 293) to disapprove pay recommendations of the President with respect to rates of pay for Members of Congress.

FAIR LABOR STANDARDS ACT AMENDMENTS OF 1974—AMENDMENTS

AMENDMENTS NOS. 999 AND 1001

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill (S. 2747) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes.

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION, 1974—AMENDMENT

AMENDMENT NO. 1000

(Ordered to be printed and referred to the Committee on Armed Services.)

Mr. KENNEDY. Mr. President, I am introducing, on behalf of myself and my distinguished colleague from Kansas, Senator PEARSON, an amendment to S. 2999, the Department of Defense Supplemental Appropriation Authorization for fiscal year 1974.

Mr. President, the purpose of this amendment is to halt the back-door financing this year of more military supplies to the South Vietnamese Army.

Last year the Congress acted to cut the administration's massive $1.5 billion request for military aid to South Vietnam by $700 million—reducing it to $900 million. Now, if the Defense Department has its way, that decision of Congress will be circumvented by simply authorizing the transfer of $474 million in unobligated funds in order to ship more arms to South Vietnam. This additional nearly half billion dollars for 1974 comes on the heels of the announced request for next year of another $1.6 billion.

I believe the American people would be shocked to learn that 1 year after the ceasefire, we continue to fuel the conflict in South Vietnam to the tune of $2 billion in military and economic aid each year. In light of our other commitments abroad, and our pressing domestic needs here at home, this massive expenditure is fiscally irresponsible.

Mr. President, America's true remaining obligations in Indochina are today less with governments than to people—to the millions of war victims and other disadvantaged by years of war who cry out for our help in relief and rehabilitation. Yet, the administration's priorities in Indochina apparently remain with funding the arms of war than with assistance to heal the wounds of war.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974—AMENDMENT

AMENDMENT NO. 1002

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY. Mr. President, I am introducing today an amendment to S. 3066, the Housing and Community Development Act of 1974. The amendment would set up a demonstration program under the Farmers Home Administration to provide housing for low-income rural families not served by existing housing programs, at minimal additional cost to the Federal Government.

The amendment would extend home ownership subsidies under Farmers Home Administration loan programs by authorizing the Secretary to permit deferral of repayment on a portion of the mortgages loan for varying periods of years, depending on changes in family income. The Secretary would defer whatever percentage of the mortgage he deemed advisable, except that in no case could he defer more than 50 percent of the loan. Used in conjunction with Farmers Home's authority to subsidize interest rates on housing loans down as low as 1 percent, this new program would bring homeownership within the reach of many rural families whose incomes are too low for them to qualify for regular FmHA subsidized loans. And the only additional cost to the Federal Government would be the small amount of interest not paid on that portion of the loan on which repayment had been deferred.

The need for a more extensive subsidy program for rural housing is evident and pressing. Whereas only about one-third of the U.S. population lives in rural areas, 44 percent of the substandard housing in the country is located in rural areas. Furthermore, almost two-thirds of the rural families living in substandard housing have annual incomes of less than $4,000. Farmers Home Administration figures for fiscal year 1972 indicated that subsidized housing programs covered only families with a median income of $6,400. With the continual rise in land and construction costs in rural as well as urban areas—estimated 76-percent increase in cost of rural homes since 1968—the problem of housing low-income rural families becomes still more critical.

The deferred repayment plan I am proposing would reach people at a lower income level, where the greatest need exists. Take, for example, a $16,000 FmHA mortgage loan, for a term of 33 years. With a 1 percent interest credit, the family's annual payment would be $570. With deferral of 50 percent of the principal and interest, the annual cost would go down to $290. This means, by FmHA standards, that a four-member family with an income of $4,000 could qualify for such a loan, or a two-member family with an income of $3,368. If the deferral were 20 percent, the annual cost would be $460—covering a four-member family with a $4,895 income or a two-member family making $4,265.

I have inserted a number of safeguards into the amendment, to insure that this program will be used on a demonstration basis only and that it will be administered in the most responsible way and at the lowest possible cost to the American taxpayer. The amendment includes the following stipulations:

No more than 15 percent of the subsidized housing loans made by the Farmers Home Administration in any fiscal year shall be available for use under this program.

The Secretary shall make loans under this program only to families which he determines are able to meet the payments and maintain the housing.

There must be inspections to ascertain that the house is in good enough condition to last for the projected period of the mortgage.

The Secretary must review yearly the income of families covered under this program and adjust the amount of principal required to be paid, until such time as the family is paying off the full amount of the mortgage.

The Secretary is required to report to the Congress within 6 months regarding implementation of the program, and within 1 year after that regarding the effectiveness of the program as implemented.

Based on the Farmers Home Administration's experience to date, the extended subsidiaries should be necessary only on a short-term basis, even though potentially they could extend for a period of up to 66 years—twice the maximum term of an FmHA mortgage. Under its current subsidy programs, Farmers Home reports that 36 percent of borrowers receiving interest subsidies are completely off the subsidy within 2 years, while another 38 percent have their subsidy reduced within 2 years. The agency estimates that 50 percent of those with interest subsidy loans go completely off the subsidy after only 5 years. The general pattern is that family income tends to rise once people have the opportunity to live in decent housing. Add to this the fact that the average life of a Farmers Home Administration mortgage is about 15 years, and it becomes obvious that the Congress would not be committing the Federal Government to decades-long extended subsidies by passing this amendment.

Programs of the sort proposed here have been used in European countries, notably in Norway, in the post-World War II period. They have brought about a growth in housing production and have provided homes to people who otherwise would not have afforded them.

Mr. President, I ask that the text of the amendment be printed in the RECORD, followed by materials on the Norwegian program and on the Farmers Home Administration's experience with subsidized housing programs.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1002

On page 230, line 21, strike out the quotation marks.

On page 230, between lines 21 and 22, insert the following new subsection: "(3) (A) When necessary in order to enable a person of low income to provide adequate housing and related facilities for himself and his family, the Secretary may make or insure a loan under section 502 or 517 or under paragraph (1) of this subsection in terms which, with respect to a portion of the loan not to exceed 50 per centum, shall—

"(i) bear interest after but not before it becomes due under clause (ii), or is reamortized under clause (iii) of this paragraph;

"(ii) become due upon expiration of the amortization period or upon full payment of the balance of the loan or in the event that without the Secretary's written consent or approval, the mortgaged property or any interest therein is transferred to or ceases to be occupied by the borrower or default occurs with respect to any obligation under the loan or mortgage, whichever occurs earliest; and

"(iii) on becoming due, be amortized for payment of principal and interest in installments over a period not exceeding thirty-three years.

"(B) In carrying out his functions under this subsection, the Secretary shall—

"(i) limit the benefits of this subsection to mortgagors able to meet the responsibilities under the mortgage and to maintain the housing acquired thereunder;

"(ii) require reasonable inspections to assure that the expected remaining life of a property subject to a mortgage under this subsection is equal to or exceeds the expected maximum term of such mortgage;

"(iii) review at intervals of one year the income of each mortgagor subject to this subsection for the purpose of making adjustments in the amount of principal which is currently amortized and payable; and

"(iv) report to the Congress not later than six months from the date of enactment of this paragraph (3) regarding the implementation of this paragraph, and not later than 18 months from such date of enactment regarding the effectiveness of the program implemented under this paragraph, in meeting the housing needs of lower income rural families.

"(C) Not more than 15 per centum of the loans which are made in any fiscal year in accordance with paragraph (1) shall be available for the loan terms provided in this paragraph (3)."

On page 231, line 2, after the period, insert the following:

"In addition, there shall be reimbursed to the fund by annual appropriations such sums as may be necessary to carry out the provision of paragraph (3) of subsection (A)."

EXPLANATION OF DEFERRED PRINCIPAL LOAN PROGRAM

EVOLUTION OF THE NORWEGIAN PROGRAM

The deferred principal loan program proposed in this amendment has its roots in the post war housing policies of Norway, where it was featured as one of the primary techniques for subsidizing new home construction for lower income families from 1946 until the mid 1960's. The noninterest bearing, deferred second loan program was employed by the government of Norway as an emergency measure to meet the great post war demand for housing and to revive the home construction industry in that war ravaged country.

In 1946, the Norwegian Government established the State Housing Bank to serve as a primary source of housing credit. For about 20 years, roughly 70 percent of Norway's housing production was financed publicly, either through the State Housing Bank or the Small Holding and Housing Bank (Norway's equivalent of Farmers Home). Under these publicly financed housing assistance programs, both state banks offered low interest loans to individual borrowers covering a certain portion of the total cost, plus a "capital subsidy" in the form of a second loan which was noninterest bearing and not to be amortized for a specified number of years. More than 50 percent of the state housing banks' loans contained such capital subsidies. The program was aimed primarily at stimulating individual and cooperative home ownership. The second or "support" loan was a device for enabling lower income families to obtain homes of their own at subsidized monthly rates. No large grants were involved, since interest was merely waived on the second loan until the family could afford to repay the entire cost of the house. There is no indication that the program was plagued by high default rates or other problems associated with the deferred or "dry" loan program. In fact, coverage under the program was expanded during the immediate post war period to eventually include a majority of the Norwegian population.

By the mid-1960's, Norwegian building industries were sufficiently strengthened and the most pressing part of the post war housing crisis passed, so that the government housing policies and programs were altered. The state banks continue to serve as the primary source of low interest housing credit, but the original capital subsidy has been replaced by a system of dual loans with varying rates of interest and repayment periods. The full employment economy of Norway and higher incomes of most families today permitted the modification in the former program.

During the nearly 20 years of operation, the deferred payment loan program was responsible for a large part of the phenomenal growth in annual housing production, up from 5,000 houses in the early 1940's to 30,000 to 35,000 houses a year in the mid-1950's, the peak of Norway's building boom. The determination of the Norwegians to provide effective homeownership opportunities to all citizens during this period, and the adoption of an effective subsidy mechanism such as the deferred principal plan, contributed to the nation's role as a leader in the production of decent housing.

RELEVANT FARMERS HOME EXPERIENCE

During the committee discussion of this amendment, considerable concern was expressed about the length of time which would be required before the first and second loans were fully repaid. Here, the Norwegian experience is of little value, since the period of time the second or "support" loan was held was determined by statute and not dependent upon changes in the borrower's income. However, Farmers Home has had considerable experience in the administration of a subsidized homeownership program (Sec. 502 Interest Credits), and that experience may be quite instructive. The evidence suggests that when lower income FmHA borrowers are recertified subsequent to receiving subsidized loans, a large percentage are found to have improved their situation so that subsidy can either be reduced or eliminated.

According to testimony presented last year by the National Association of Home Builders, 36 percent of the families recertified for the first time by Farmers Home were no longer eligible for subsidy (interest credits), and an additional 38 percent had subsidy reductions. Similar figures from HUD reveal that government payments have been reduced in about 60 percent of all section 235 cases upon recertification. Farmers Home's own testimony before the Senate Housing Subcommittee last year confirms the estimates as to the length of time subsidy assistance is necessary. According to FmHA estimates, the number of interest credit borrowers will be reduced by 50 percent within the first 5 years as a result of income recertification.

Similarly, available figures indicate that the natural rate of turnover or resale of homes would have an impact on the duration of subsidy arrangements. Farmers Home's past experience shows that the average duration of an FmHA mortgage is 13 years. As a result, cost estimates regarding the amount of public subsidy involved in the proposed Hathaway amendment are based on a deferral of interest and principal for an average of 13 years.

AMENDMENT NO. 1003

(Ordered to be printed and to lie on the table.)

Mr. MONTOYA. Mr. President, the Indian housing situation is acute. Of the 92,000 existing housing units on Indian lands, 62 percent, or more than 56,000 units, are substandard. At least 58 percent of those substandard units, 32,000 units require replacement because their condition is beyond renovation. An additional 15,000 units are needed to provide housing for families who have no homes of their own. The total current new housing need, according to the latest Bureau of Indian Affairs' housing survey, is more than 47,000 units, which does not include at least 1,500 units each year required to keep up with population growth and deterioration of existing housing units.

The Indian housing situation is particularly critical because of the very low

incomes that prevail. More than 47 percent of the families living in rural, Indian areas have incomes that fall below the Federal poverty level. Widespread poverty, high unemployment, and special Indian land status isolate Indians from housing finance resources that are available to most other citizens. Instead, Indians must rely on the flexibility and deep subsidy mechanism that the Federal public housing program offers.

In 1969, the Department of Housing and Urban Development signed an agreement with the BIA and the Indian Health Service, pledging HUD to the development of 30,000 units of Indian housing in a 5-year period under the various public housing programs. This agreement recognized the Federal responsibility for overcoming the substantial Indian housing problem. Though substantial progress has been made, there is much more to accomplish. The 1969 agreement will expire this fiscal year, with 4,700 units uncommitted and no HUD assurances for future participation in Indian housing development.

To insure that the deplorable housing conditions of Indians will be overcome, Senators ABOUREZK, METCALF, and myself will offer an amendment to the Housing and Community Development Act of 1974, S. 3066, which will authorize under the public housing programs, the expenditure of $15,000,000 yearly on Indian housing for fiscal years 1975 and 1976. This amount will provide for approximately 7,500 units yearly, or an amount equal to the 6,000 units to which HUD was committed in 1969, and an additional 1,500 units to keep up with continuing housing deterioration and population growth.

We feel that this amendment will continue, in law, the sense of the HUD commitment made in 1969, and assure that Indian people, who must rely on public housing, will continue to be served by our Federal housing programs.

I ask unanimous consent that the text of the proposed amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1003

On page 131, line 11, after the period, insert the following:

"Of the aggregate amount of contracts for annual contributions authorized under this section to be entered into on or after July 1, 1974, not less than $15,000,000 per annum, which amount shall be increased by not less than $15,000,000 per annum on July 1, 1975, shall be available only for low-income housing for persons who are members of any Indian tribe, band, pueblo, group, or community of Indians or Alaska natives which is recognized by the Federal Government as eligible for service from the Bureau of Indian Affairs."

NOTICE OF HEARINGS ON STATE DEPARTMENT AUTHORIZATION BILLS

Mr. SPARKMAN. Mr. President, I wish to announce that the Foreign Relations Committee will hold hearings next week on the three bills I have today introduced. On March 11, the committee will hear testimony on the fiscal year 1975 State Department authorization bill; and on March 12, the committee will hear testimony on the fiscal year 1975 USIA authorization bill and the fiscal year 1974 supplemental authorization bill for the State Department and Foreign Service buildings. These hearings will be held in room 4221 of the Dirksen Senate Office Building; and sessions will convene at 10 a.m. and 2:30 p.m. on both days. Anyone wishing to offer testimony should contact Mr. Arthur Kuhl, chief clerk of the committee, at 225-4615.

ANNOUNCEMENT OF HEARINGS—BARRIERS TO HEALTH CARE FOR OLDER AMERICANS

Mr. MUSKIE. Mr. President, as chairman of the Subcommittee on Health of the Elderly of the Special Committee on Aging, I would like to announce that the committee will hold hearings on the potential effects on the elderly of the administration's national health insurance proposal, the comprehensive health insurance plan. The hearings will be held in room 5110, Dirksen Senate Office Building at 10 a.m., March 12 and 13.

These hearings are the eighth and ninth in the subcommittee's series of hearings on "Barriers to Health Care for Older Americans."

ADDITIONAL STATEMENTS

WITHDRAW FROM SEATO

Mr. ROBERT C. BYRD. Mr. President, the Senate Foreign Relations Committee is currently reviewing the U.S. commitment to the Southeast Asian Treaty Organization. As one who believes the time has come for the United States to withdraw from SEATO, I submitted a statement today expressing this viewpoint to the Foreign Relations Committee for insertion in the hearings.

I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR ROBERT C. BYRD

Mr. Robert C. Byrd: Mr. Chairman, I appreciate this opportunity to submit my views regarding United States participation in the Southeast Asia Collective Defense Treaty, or, as the treaty is more commonly called, SEATO. As a co-sponsor of the Senate Resolution 174, which calls for this review to determine the advisability of United States renunciation of the SEATO pact, I am keenly interested in the conclusions that might arise from these hearings.

It is my belief that SEATO is an anachronism, and that the Treaty is an obstacle to a realistic and progressive United States policy in Asia. There is considerable doubt in my mind whether the SEATO pact ever promoted American interests and objectives in Asia. There is no doubt in my mind that currently, it does not.

Twenty years ago, when the Senate gave its advice and consent to U.S. membership in SEATO, the situation in southeast Asia was markedly different to the conditions that obtain today. In the mid-1950's, the entire area appeared to be threatened by Communist expansion, sponsored by Soviet Russia and the People's Republic of China. The reasonable judgment was made that a collective security agreement among certain southeast Asian nations—backed by concerned Western powers—would be an effective tool for maintaining regional security. The recent diplomatic overtures made by the United States to the People's Republic, and the policy of detente with the Soviet Union, have substantially reduced the Communist threat in Asia, and have further reduced the usefulness of the SEATO agreement.

Our SEATO allies have shown little enthusiasm for their treaty obligations, and have done little for regional security. France has withdrawn from Asia, and has been a very inactive member of SEATO. Only token British forces remain in Asia. Pakistan gave official notice in November of 1972 that it was disassociating itself from the treaty. Australian and New Zealand leaders have criticized the pact, and have sharply questioned its usefulness, as have the Philippines and Thailand. The consensus of the signatories makes it clear that the pact has outlived any usefulness that it may have enjoyed, and that, although U.S. policy toward Asia has not been well articulated, it is time to scrap SEATO and redirect American efforts and resources into more realistic and productive channels. The primary U.S. objective in Asia is peace. SEATO was formed in large part to help maintain the peace, and, as events of the past twelve years proved conclusively, it failed. There is far less reason to believe that SEATO would provide today a significant hedge against the outbreak of war in southeast Asia than it did in the years from 1954 up to the beginnings of the Vietnam War.

Belatedly, the United States recognized that the People's Republic of China is a major force in Asia, and that it must be drawn into cooperative involvement in Asian programs. SEATO, which was created in part to contain and isolate the People's Republic, is an unnecessary barrier to such cooperation. There can be no meaningful role for the People's Republic as long as two Asian countries, two Pacific island countries, and three western powers are linked by treaty to an overall policy that is inimical to Chinese interests and future development within the community of nations.

The Soviet Union and Japan are practically ignored by SEATO. It is wholly unrealistic for the United States to maintain alliances that ignore the interests, and preclude the constructive involvement of three major powers in Asia. A continued U.S. involvement in the Southeast Asian Collective Defense Treaty, however meaningless its provisions may have become, is an obstruction in the path of the best interests of the United States in Asia.

A renunciation of the treaty by the United States would not mean that we have abandoned our support of the southeast Asian states, or that we no longer associate ourselves with their aspirations for political, social, and economic well-being. We will continue to offer our good offices in their efforts to achieve freedom from tyranny and political corruption, freedom from hunger and disease, and freedom from the shackles of illiteracy and inadequate technology. In these vital fields, SEATO is very poorly equipped to help. It is primarily a mechanism of defense, and is not geared to administrative help and self-help programs. There are other international agencies that are infinitely better equipped to render the assistance that the countries of southeast Asia desperately need, and American help should be channeled through such organizations.

I firmly believe that the treaty, the membership, the organization, and the basic purpose of the Southeast Asia Collective Defense Treaty are inappropriate to the problems of southeast Asia today. I further believe that the financial commitment to SEATO by the

United States, amounting to more than half-a-million dollars annually, is wholly unjustified in the light of the treaty's lack of usefulness to the United States, and its inviability as a peacekeeping instrument in southeast Asia.

I submit that the United States should withdraw from our commitment to this outmoded and outdated international agreement.

Mr. Chairman, I thank you, and the members of the Committee on Foreign Relations for giving me this opportunity to present my views.

GHANA—17TH ANNIVERSARY

Mr. AIKEN. Mr. President, I would like to call to the attention of the Senate that today marks the 17th anniversary of the creation and independence of the country of Ghana.

We know that Ghana—an ancient name for a large portion of West Africa—was chosen 17 years ago as the name of the new African country.

Ghana has not forgotten the traditions of her ancient and honorable past in her development as a vibrant nation in modern Africa—where, by the way, some of the most creative work in forming self-government is still taking place.

Since Ghana's independence from the United Kingdom in 1957, progress has been made in all fields of development.

The details of this progress are set forth in the brief informational release issued by the Embassy of Ghana and I ask that it be printed in the RECORD for all Members of the Senate to read.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

GHANA IS 17 YEARS TODAY, MARCH 6, 1974

Since independence seventeen years ago, Ghana has made remarkable progress in all fields of development. She has built roads, hospitals, new townships, developed rural electrification and has supplied her people with pipe borne water, and other social amenities. New schools have been built and the old educational system has been changed to reflect the needs of our society.

The Government of the National Redemption Council, led by Colonel Ignatius Kutu Acheampong, has shown practical understanding of our problems by injecting strict discipline into the economy. Imports have been controlled to appreciable levels and every effort has been made to boost exports in textiles, wood products, aluminum alloys, processed cocoa products, etc. This has yielded positive results; the high price of cocoa, timber and gold on the world market has also added more inputs into the economy and, as a result, unemployment, inflation and high prices show a downward trend. The third phase of "Operation Feed Yourself" was launched in Northern Ghana recently with the object of increasing agricultural production of food and industrial crops and diversifying Ghana's economy in order to reduce over dependence on cocoa and timber. Ghanaians are determined to make the nation self-reliant and economically viable.

Ghana's economic and industrial policies provide for viable foreign investment and partnership in certain economic areas. The Capital Investments Board provides incentives and liberal concessions to prospective investors who are willing to co-operate with us on equal terms in prescribed areas of operation.

The expansion of Ghana's trade with the United States and other North and South American countries, including the Caribbean, will be vigorously pursued by the National Redemption Council.

With regard to Foreign Affairs, Ghana has continued to build effective links with her neighbors, worked towards a Common Market in West Africa and supported vigorously the Organization of African Unity, the United Nations and its Specialized Agencies, the Third World, the Non-aligned Group and other regional groups in their efforts to free Africa from colonialism and racialism. Within these organizations, Ghana will continue to join all peace-loving nations in their programmes to raise the living standards of peoples all over the world.

It is our hope and belief that the current achievements of the National Redemption Council will continue to inspire Ghanians in all walks of life so that Ghana shall be a shining example to all lovers of peace, freedom, justice and human progress.

THE PRESIDENT'S PROPOSALS FOR CAMPAIGN FINANCING REFORM

Mr. KENNEDY. Mr. President, I welcome the President's decision to submit proposals on campaign financing reform to Congress later this week. Coming as it does on the eve of Senate debate on the landmark public financing legislation proposed by the Rules Committee, the decision to submit concrete proposals to Congress is a clear step forward from the administration's past position on the issue, which was limited essentially to a proposal for a study commission to investigate the problem.

I also see the White House decision as a hopeful new sign of movement within the administration on the issue, a sign that the administration is now prepared to work with Congress in debating and resolving the issues of campaign financing, including the central question of the role of public financing.

A strong bipartisan majority of the Senate is already on record in favor of comprehensive public financing for Federal elections, and the Senate Rules Committee has done an outstanding job in reporting the pending bill to the full Senate. And, as the attached table on the results of the dollar checkoff indicates, nearly 3 million taxpayers have already voted on their tax returns this year for public financing of the 1976 Presidential elections. Certainly, we cannot turn back the clock on this obvious, effective, and widely popular response to Watergate.

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RESULTS OF DOLLAR CHECKOFF

1973 returns filed in 1974	Returns using checkoff for 1973		
	Number	Percent	Amount
Through Jan. 18	43,198	10.7	$60,066
Week of Jan. 25	120,202	14.0	171,984
Week of Feb. 1	251,312	14.7	365,777
Week of Feb. 8	396,287	14.3	585,519
Week of Feb. 15	553,806	14.1	820,986
Week of Feb. 22	692,823	15.1	930,641
Week of Mar. 1	766,586	14.6	1,136,250
Cumulative:			
Jan. 25	163,400	13.0	232,050
Feb. 1	414,712	14.0	597,827
Feb. 8	810,999	14.1	1,183,346
Feb. 15	1,364,805	14.1	2,004,332
Feb. 22 (13,963,000)[1]	1,994,628	14.4	2,934,973
Mar. 1 (19,141,000)[1]	2,761,214	14.5	4,071,223

1973 returns filed in 1974	Returns using checkoff for 1972		
	Number	Percent	Amount
Through Jan. 18	21,580	5.3	30,461
Week of Jan. 25	59,360	6.9	85,998
Week of Feb. 1	120,088	7.0	177,418
Week of Feb. 8	186,534	6.7	280,093
Week of Feb. 15	258,172	6.6	390,459
Week of Feb. 22	294,289	7.1	443,390
Week of Mar. 1	359,690	6.9	544,809
Cumulative:			
Jan. 25	80,940	6.4	116,459
Feb. 1	201,028	6.8	293,877
Feb. 8	387,562	6.8	573,970
Feb. 15	645,734	6.7	964,429
Feb. 22	940,023	6.8	1,407,819
Mar. 1	1,299,713	6.8	1,952,628

[1] Total returns processed. 81,000,000 returns expected by Apr. 15, 1974: as of Mar. 1, 31,169,000 returns had been filed, or about 43 percent of the returns expected to be filed. The figures in the table are based on returns processed.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Mr. TOWER. Mr. President, in the next few days the Senate will begin consideration of S. 3066, the "Housing and Community Development Act of 1974."

This legislation is one of the most complex housing and community development bills which the Senate has ever considered and represents many, many months of concerted effort by the members and staff of the Senate Banking, Housing, and Urban Affairs Committee.

As Senator BROCK, Senator PACKWOOD, and I pointed out in our supplemental views, although the bill is needed and has many good points, it also contains a number of basic flaws.

One of the matters which gives me the greatest trouble is the chapter dealing with community development. Under the provisions of the proposal submitted by the administration entitled "The Better Communities Act," $2.3 billion in community development funds would have been distributed to communities across the country, primarily on the basis of a "needs" formula composed of objectively determinable factors, such as population, housing overcrowding, and poverty. Thus communities would have received funds according to their objectively determined needs in relation to those of other communities. This would have been entitlement funding that was not subject to the discretion of the Secretary of Housing and Urban Development.

Under S. 3066, however, the "needs" factor has been completely abandoned, and the only communities which would receive an entitlement would be those communities which have had past program experience in certain community development activities. In effect, S. 3066 rewards past grantsmanship for the foreseeable future. All other communities must apply to the Department of Housing and Urban Development for a portion of the remaining funds and must rely on the Secretray's discretion.

This matter causes me considerable difficulty because, under the provisions of the Better Communities Act, my hometown of Wichita Falls would have received $442,000 in the first year of the program and $1,494,000 in the fifth year of the program based on a "needs" formula; but under the provisions of S. 3066, without such a formula, my hometown would receive no direct entitlement at all.

Furthermore, under the Better Communities Act, the city of Houston would

have received $12,992,000 in the first year of the program and $21,729,000 in the fifth year of the program. Under S. 3066, Houston will receive $12,992,000 for the first 2 years of the program; but for the 2 years immediately following that, based on the Secretary's discretion Houston could receive anywhere between 80 to 120 percent of the $12,992,000. Under the best of circumstances, Houston's funding could reach $18,708,000 during the fifth year, significantly less than what they could have anticipated under the "needs" formula of the Better Communities Act.

A similar situation exists in Dallas. Under S. 3066, the city of Dallas will receive an entitlement share of $2,630,000 for the first 2 years of the program, and after that, it will be up to HUD's discretion to set an allocation figure within the 80 to 120 percent range of what Dallas had received in the preceding funding period. Under the "needs" formula of the Better Communities Act, however, Dallas would have received $4,208,000 in the first year, $8,428,000 in the second year, $14,233,000 in the fifth year, and a 5-year total of $53,662,000.

With the thought that my colleagues would be interested, I asked the Department of Housing and Urban Development to prepare a list of those metropolitan cities and urban counties which would have received a direct entitlement based on the "needs" formula of the Better Communities Act, but which receive no direct entitlement under the provisions of S. 3066.

Mr. President, I ask unanimous consent that the listing prepared by the Department of Housing and Urban Development be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

METROPOLITAN CITIES AND URBAN COUNTIES ELIGIBLE FOR A DISTRICT ENTITLEMENT UNDER THE "NEEDS" FORMULA OF THE ADMINISTRATION'S BETTER COMMUNITIES ACT, BUT WHICH ARE EXCLUDED FROM A DIRECT ENTITLEMENT UNDER S. 3066, THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

ALABAMA

Urban counties

Jefferson.

ARIZONA

Cities

Mesa.

CALIFORNIA

Cities

Alameda, Alhambra, Anaheim, Bakersfield, Bellflower, Buena Park, Burbank, Carson, Chula Vista, Concord, Costa Mesa, Daly City, Downey, El Cajon, El Monte, Fairfield, Freemont, Fullerton, Garden Grove, Glendale, Hawthorne, Huntington Beach, Lakewood, Lompoc, Monterey, Mountain View, Norwalk, Ontario, Orange, Palo Alto, Pico Rivera, Pomona, Redwood City, San Leandro, Santa Ana, Simi Valley, South Gate, West Covina, Westminster, and Whittier.

Urban counties

Alameda, Contra Costa, Fresno, Kern, Orange, Santa Clara, Riverside, Sacramento, San Bernardino, San Diego, and San Mateo.

COLORADO

Cities

Aurora, Boulder, and Lakewood.

DELAWARE

Urban counties

New Castle.

FLORIDA

Cities

Boca Raton, Clearwater, Cocoa, Gainesville, Hialeah, Winter Haven, Hollywood, Lakeland, Miami Beach, Pensacola, and West Palm Beach.

Urban counties

Broward, Hillsborough, Pinellas, Orange, and Palm Beach.

GEORGIA

Urban counties

De Kalb.

HAWAII

Urban counties

Honolulu.

ILLINOIS

Cities

Arlington Heights, Aurora, Berwyn, Champaign, Cicero, Des Plaines, Elgin, Evanston, Moline, Normal, Oaklawn Oak Park, Rantoul, Skokie, Urbana, and Waukegan.

Urban counties

Cook, Du Page, Lake, Madison, and St. Clair.

INDIANA

Cities

Lafayette, Muncie, and West Lafayette.

Urban counties

Lake.

IOWA

Cities

Cedar Falls and Council Bluffs.

KANSAS

Cities

Overland Park.

KENTUCKY

Cities

Owensboro.

LOUISIANA

Cities

Alexandria and Lafayette.

Urban counties

Jefferson Parish.

MARYLAND

Urban counties

Anne Arundel and Baltimore.

MASSACHUSETTS

Cities

Leominster and Medford.

MICHIGAN

Cities

Battle Creek, Dearborn, Dearborn Heights, East Lansing, Kalamazoo, Livonia, Portage, Roseville, Royal Oak, Southfield, Sterling Heights, Taylor, Westland, and Wyoming.

Urban counties

Macomb, Oakland, and Wayne.

MINNESOTA

Cities

Bloomington and Rochester.

Urban counties

Hennepin.

MISSOURI

Cities

Columbia and Florissant.

MONTANA

Cities

Billings and Great Falls.

NEBRASKA

Cities

Lincoln.

NEW JERSEY

Cities

Bloomfield, Millville, Passaic, and Sayreville.

Urban counties

Bergen, Burlington, Camden, Essex, Hudson, Middlesex, Monmouth, Morris, and Union.

NEW YORK

Urban counties

Erie, Monroe, Nassau, Onondaga, Rockland, Suffolk, and Westchester.

OHIO

Cities

Cleveland Heights, Euclid, Kettering, Lakewood, Lima, Marietta, and Parma.

Urban counties

Cuyahoga, Franklin, Hamilton, Montgomery, Stark, and Summit.

OKLAHOMA

Cities

Norman.

OREGON

Cities

Springfield.

PENNSYLVANIA

Urban counties

Beaver, Berks, Bucks, Chester, Delaware, Lancaster, Luzerne, Montgomery, Washington, Westmoreland, and York.

RHODE ISLAND

Cities

Cranston City and Warwick City.

TEXAS

Cities

Abilene, Amarillo, Arlington, Beaumont, Brownsville, Bryan, College Station, Denison, Garland, Harlingen, Irving, Killeen, McAllen, Mesquite, Midland, Odessa, Orange, Pasadena, Pharr, San Angelo, San Benito, Sherman, Temple, Tyler, and Wichita Falls.

Urban counties

Dallas, Harris, and Tarrant.

UTAH

Cities

Orem.

Urban counties

Salt Lake.

VIRGINIA

Cities

Colonial Heights and Virginia Beach.

Urban counties

Fairfax.

WASHINGTON

Cities

Bellevue, Everett, Kennewick, Richland, Spokane, and Yakima.

Urban counties

King, Pierce, and Snohomish.

WEST VIRGINIA

Cities

Weirton.

WISCONSIN

Cities

Appleton, Kenosha, Oshkosh, Racine, Wauwatosa, and West Allis.

Urban counties

Milwaukee and Waukesha.

Cities

PUERTO RICO

Guaymamo.

Mr. TOWER. Mr. President, while the committee struggled long and hard with the issue of trying to arrive at an equitable means of distributing community development funds, we did not, in my view, arrive at a successful solution to the problem. Since we were unable to resolve the issue successfully in committee, it does not seem fruitful to try to resolve it on the Senate floor. I can only hope that, with the help of the other body,

we shall find a better method of distributing community development funds before the legislation is finally sent to the President.

SEVENTEENTH ANNIVERSARY OF GHANA

Mr. McGEE. Mr. President, as the ranking Democrat on the African Affairs Subcommittee of the Senate Foreign Relations Committee, I want to take this opportunity to pay tribute to the nation of Ghana which is celebrating her 17th anniversary of independence today.

Ghana is a nation of unlimited potential. Having traveled to that country on study missions, I can attest to the fact that she has a vast wealth of human resources. One does not come away from Ghana without being excited over her highly talented and skilled civil service and the remarkable capabilities to be found in the private sector as well.

Since independence 17 years ago, Ghana has made remarkable progress in all fields of development. Recognizing that a significant amount of foreign exchange earnings comes from her agricultural sector, the Ghanian Government has launched a sustained and continuing program of enhancing the quality of life for her rural citizens. These projects include rural health services, rural electrification, and education. Roads, hospitals, new townships, the Akasombo Dam, and other infrastructure projects have been instrumental in improving the quality of life for an ever increasing number of Ghanians.

The government of the National Redemption Council, led by Col. Ignatius Kutu Acheampong, has shown a practical understanding of Ghana's problems by injecting strict discipline into the economy. Imports have been controlled to appreciable levels and every effort has been made to boost exports in textiles, wood products, aluminum alloys, processed cocoa products, and other raw and processed materials. The results have been very encouraging. The higher prices of cocoa, timber, and gold on the world market have added more inputs into the economy. As a result, unemployment, inflation, and high prices show a downward trend.

Last month, the third phase of "Operation Feed Yourself" was launched in northern Ghana. This unique project is aimed at increasing agricultural production of food and industrial crops and at diversifying Ghana's economy in order to reduce her dependence on cocoa and timber as major foreign exchange earners. It is very evident that Ghanians were determined to make their nation self-reliant and economically viable.

Ghana's economic and industrial policies provide for viable foreign investment and partnership in certain economic areas. The Capital Investments Board provides incentives and liberal concessions to prospective investors who are willing to cooperate with Ghanians on equal terms in prescribed areas of operation.

The National Redemption Council has made it very clear that it will pursue the expansion of trade with the United States, and other North and South American countries, including the Caribbean.

Thus, I pay tribute to Ghana as she celebrates her 17th anniversary of independence. Her future is bright and her potential unlimited, for Ghana's greatest strength is her people. I want to wish Ghanians continued success in their achievements.

AMERICAN PARENTS COMMITTEE PROGRAM

Mr. HUMPHREY. Mr. President, each year the American Parents Committee performs a valuable service for the people, particularly the children, of this Nation. By careful study and formulation of positions on legislation before the Congress, the committee focuses attention on issues that might otherwise fail to get as much careful attention as they deserve.

The committee's Washington Report on Federal Legislation for Children, issued periodically, provides a cogent summary of the position of the organization on bills that are before Congress. George Hecht, chairman of the committee and publisher of Parents' magazine, noted in a letter to me that the committee's board of directors has voted unanimously to take the positions outlined in the report on "1974 Federal Legislative Goals on Behalf of Children."

I believe it is worth the time of each Member of Congress to familiarize himself with the committee's goals.

Mr. President, I ask unanimous consent that The American Parents Committee's 1974 Federal Legislative Goals on Behalf of Children be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AMERICAN PARENTS COMMITTEE'S 1974 FEDERAL LEGISLATIVE GOALS ON BEHALF OF CHILDREN

The following statement of 1974 Federal Legislative Goals on Behalf of Children was adopted unanimously by the Board of Directors of the American Parents Committee, Inc., at a well-attended meeting on January 31, 1974, in New York City.

The order of presentation of the following goals has no significance. In general, the APC works for Congressional action on behalf of children with which few, if any, other non-governmental agencies concern themselves. Also, because of its limited staff and funds, the APC concentrates on measures that it believes are attainable and not on measures upon which it can have little influence. It invites the cooperation of other organizations and groups in attaining any or all of these goals.

OF OVERALL IMPORTANCE

In a year in which economists agree that "recession" conditions will prevail, the American Parents Committee is pledged to vigorously oppose administration or congressional attempts to seek relief for the federal treasury by reducing expenditures for programs for children and youth.

We will continue to work for appropriations that closely approximate authorizations for these programs, and we will urge Congress to exercise the prerogative of overriding a Presidential veto, rather than making concessions which will make likely a Presidential signature but which hinder the implementation of health, education and welfare services for children and their families.

Knowing that Congressional appropriations committees are seriously understaffed, and that many individual members of Congress have little information about how social welfare programs actually operate, we shall attempt to assist Congress in maintaining vigilant oversight of program administration. We also intend to oppose any administrative regulations which impede provision of Congressionally mandated programs.

The American Parents Committee also will work (1) for enforcement of court orders barring impoundment of funds appropriated by Congress for children's programs, and (2) for specific mechanisms in appropriations bills which will thwart impoundment.

We continue to support the concept of categorical grants as the only means to target federal funds to specific needs. We do not believe revenue-sharing or bloc grants are appropriate mechanisms for social welfare programs.

We shall oppose "budget reform" legislation which would pre-empt the authority of the appropriations committees to recommend to Congress how federal funds should be spent. "Budget Reform" proposals already enacted, and scheduled for House-Senate conference reconciliation early in the new session, would enhance the power of the most conservative elements in the House and Senate to channel funds away from human services programs.

We shall monitor any welfare legislation which emerges. All so-called welfare reform proposals will be closely examined both as to their proximate impact on children, as well as their long-term effects on children and youth, in terms of their effect on our entire society. It is possible that the American Parents Committee, along with a few other organizations, may be required to fight against all so-called "welfare proposals" if, upon examining them, we find them to be detrimental to children or to their parents.

The APC continues to support the concept of income maintenance for families, but only at levels of genuine adequacy and without punitive or discriminatory eligibility, work, or other requirements.

We support the legislation to create a national computerized adoption exchange twice passed by the senate. We urge increased efforts by DHEW and the Congress to recognize the right of every child to a permanent family and to facilitate this right with increased attention and funding for services to return removed children to their original familes where possible, and where not, facilitate early adoptive placement.

We will continue to monitor and examine proposals intended to improve the efficacy of the human services delivery system from the point of view of the recipient children and families.

CHILD WELFARE

After two years of stasis, Congress increased the appropriation under the Social Security Act Title IV–B for child welfare services from $46 million to $50 million. (The increase resulted from Senate appropriation of $61 million, which was reduced to $50 million in conference with the House, where no change from the present $46 million appropriation had been recommended.) It should be noted that authority granted the President in the conference report to reduce expenditures for any HEW-Labor program by 5 per cent, would wipe out practically all of the $4 million increase, leaving only $1.5 million in additional funds, or a $47.5 million total. Considering that the authorization for these programs is $211 million for fiscal year 1974, this small increase is hardly a great victory, but it does represent an expansion of awareness in the Congress of the importance of the services provided under Title IV–B: protective services, foster care,

adoption and others. The American Parents Committee will attempt to build on this relatively small base in order to achieve a larger increase in the appropriation for fiscal year 1975.

We will devote particular attention to obtaining adequate appropriations for the Child Abuse and Prevention Act which has recently passed the House and Senate.

The American Parents Committee also will seek House passage of (and appropriations for) legislation passed by the Senate authorizing $36 million over three years for research on the Sudden Infant Death Syndrome (SIDS) through grants to public and nonprofit private agencies.

Social Services: In the first session of the 93rd Congress the American Parents Committee was actively involved in efforts to safeguard the scope, financing and objectives of Title IV–A social services. We will continue this effort in the second session, directing specific attention to the need for appropriation of the full $2.5 billion allowed under the ceiling enacted by Congress in 1972. We will insist upon maintenance and enforcement of high federal standards for services, and liberal eligibility criteria.

Homemaker Service: The APC renews its commitment to expansion of homemaker service in order to enable children to remain in or return to their own homes, rather than be committed to foster homes or institutional care. We also will seek reinstatement of the requirement that these services meet strong national quality standards. Only through the provision of homemaker service, in accord with national standards, can the well-being of the vulnerable families and children served be protected.

Day Care Licensing Codes: Model day care licensing codes developed by HEW after several controversial regional meetings whose representative attendance was widely questioned, have been issued by the HEW Department to governors of the states, with the suggestion that the codes be enacted by state legislatures. We will work with other organizations to examine the need for truly "model" day care licensing codes, and we will oppose any attempts by the Administration to promulgate codes which are inadequate.

Headstart: Headstart renewal will be the subject of extended Congressional consideration in 1974. The American Parents Committee will urge Congress to continue the program with a low fee schedule allowing a broad socio-economic mix of children and substantial funding. We believe that representatives of the children who are subjects of the research should be included in an Advisory Board that would oversee the design and implementation of the research.

Supplementary Security Income (SSI): Starting on January 1, 1974, aged, blind and disabled persons are eligible for federalized income supplements, under a new program enacted by Congress in 1972, growing out of H.R. 1, the "welfare reform" proposal. The Social Security Administration which is charged with administering the program, expected to extend benefits to a quarter- to a half-million disabled children. However, in order to make these cash benefits available, procedures are being instituted to define child disabilities. The American Parents Committee intends to press for successful implementation of this program for children one of its principal efforts in 1974 and to see that outreach efforts are sufficient to draw in every qualified child. It will work for federal policies which assist the States to supplement benefits where necessary without impairing the child's federal entitlement.

The APC urges the Congress and the Administration to take appropriate steps to fully finance domestic programs in Vietnam to provide health and welfare programs to rehabilitate Vietnamese children and their families who have suffered immeasurably from the war.

CHILD HEALTH

With the anticipated introduction by the Administration of a new National Health Insurance proposal early in the new session of Congress, that issue will again command close scrutiny. The American Parents Committee will support legislation which provides the most comprehensive care for children, under the most equitable financing arrangement. We believe that consolidation of Medicaid into a national program principally shaped around employer contributions would arbitrarily jeopardize accessibility of health care for children of poor unemployed mothers.

Another major health measure scheduled for early consideration by the Congress would consolidate six expiring programs into a health revenue-sharing program. These are: the Community Mental Health Centers Act; the Family Planning and Population Research Act; the Developmental Disabilities Amendments to the Developmental Disabilities Services and Facilities Construction Act; amendments to Title V of the Public Health Service Act, authorizing migrant health programs; and Title III, authorizing neighborhood health centers; and Comprehensive Health Services. While we will support the six individual health programs which would be consolidated in the bill, we will oppose the health revenue-sharing proposal.

Maternal and Child Health: These programs have been of special concern to the American Parents Committee for many years. Last year we testified vigorously against Administration efforts to drastically reduce these services by eliminating the project grants which fund programs in urban areas. Decimation of the program was averted, but were it not for an obscure amendment authorizing a supplemental appropriation, available funds would barely have covered cost of living increases. Recognizing that food and energy shortages pose a threat to infant health, we will work for more adequate appropriations for maternal and child health programs. Unmet needs of adults usually have a temporary effect. Unmet needs of children are frequently growth-stunting and, therefore, lead to lifelong damage.

The American Parents Committee also will support full appropriations for the *Emergency Health Personnel Amendments of 1972; the Communicable Disease Control Amendments of 1972; the National Institute of Child Health and Human Development; and the National Health Service Corps* and its scholarship program.

Early and Periodic Screening, Diagnosis and Treatment program: The Office of Child Development has announced plans for limited implementation of the EPSDT program authorized by Congress under the Medicaid amendments of 1967. Initially, only children in Headstart programs who are Medicaid-eligible will be entitled to the services. American Parents Committee believes eligibility should be extended beyond children in Headstart; we will work for inclusion of all Medicaid children in the program.

Drug Abuse: The American Parents Committee will work for adequate appropriations for the recently extended Drug Abuse Education Act. But we will register strong opposition to any legislation which authorizes use of drugs or behavior modification techniques in the schools. These measures pose constitutional threats to students' rights and misdirect attention from efforts to deal with *causes* of disciplinary problems.

EDUCATION

Elementary and Secondary Education Act: Education subcommittees of the House and Senate are expected to complete their intensive examination of the ESEA early in the next session of Congress. The ESEA, a landmark of the Johnson Administration, has for eight years funneled money to children otherwise least likely to experience maximum education opportunities. We shall encourage Congress to maintain this focus by retaining the categorical grant system utilized in the ESEA.

Education of the Handicapped: Also to be considered with the Elementary and Secondary Education Act are amendments extending for three years the Education of the Handicapped Act (P.L. 91–230), which include authorization of $75 million for early childhood education, and $27.5 million for special programs for children with specific learning disabilities. The American Parents Committee fully supports extension of this legislation, and will work for full appropriations for programs which it authorizes for handicapped children. We urge retention of AFDC as one of the factors included in devising the formula for fund allocation. Allocation to the various States should be based on 1970 census figures.

Compulsory Attendance Age: The failure of the public schools to meet the needs of many students has given rise to recommendations from several quarters for lowering the age for compulsory school attendance and eligibility for employment during school hours from 16 years to 14 years and for establishing alternatives in some variation of work programs. For a generation that matures earlier but kept in a dependent status longer than previous generations, there is likewise a need for a greater measure of developmental experiences outside of school. Therefore, we will support efforts to modernize school attendance and youth employment legislation that provide the flexibility for maximizing the opportunities for alternatives for those youths needing them, but we shall oppose those changes that will destroy protection against oppressive child labor or will encourage the employment of youth at the expense of adults, including the payment of lower wages. In short, we shall seek to balance increased opportunity with vigilant protection.

Busing: Under the guise of energy conservation, the House approved an amendment to an energy bill which prohibits the allocation of fuel for the transportation "of any public school student to a school farther than the public school closest to his home." The American Parents Committee will urge Senate conferees to reject this amendment, and we will strenuously oppose efforts to attach anti-busing measures to any other legislation.

Vouchers and Performance Contracting: All legislation with an educational impact, including child development programs, must steer clear of the various questionable schemes that have been put forth during the last few years such as: bloc grants, revenue-sharing, vouchers, and performance contracting. Until appropriate legislation is enacted, the American Parents Committee will fight all inadequate substitutes.

NUTRITION

Several major achievements were made last year in child feeding programs: higher eligibility scales for school lunch participation; extension of the school milk program to day care centers; cash-out for schools that are unable to receive commodities; a special appropriation for cafeteria equipment which will enable more schools to participate in the lunch program; funds for free and reduced price meals; expansion of the food stamp program.

However, organizations concerned with child nutrition are all too aware that funds authorized and appropriated by Congress for these purposes often are left unused in the Treasury by the Department of Agriculture. In other instances USDA subverts the intent of Congress by publishing regulations which cripple food programs. The American Parents Committee continues to regard these as

despicable practices and pledges to join with other organizations in fighting them.

Implementation of the supplementary feeding program for women, infants and children (WIC) has begun after a delay of nearly 15 months. The American Parents Committee will work for a number of improvements in this crucial program: First, we believe WIC should be administered not by U.S. Dept. of Agriculture, but by HEW, which has the requisite health and diagnostic expertise. Second, WIC should be included under maternal and child health programs as a mandatory project. Third, the program should be shifted from a research to a service orientation. And finally, additional protein foods, such as tuna fish and peanut butter, should be added to eligible items.

The American Parents Committee will support legislation authorizing higher reimbursement rates for school breakfast and lunch programs, which presently are subject to language which inequitably allocates funds. We also will support reinstatement of the "especially needy" program, which makes available extra funds for schools in which almost all students receive free or reduced price meals. These funds, previously provided under the Emergency Food and Medical Service established by the Economic Opportunity Act, were omitted from the School Lunch Act last year.

Supplemental Food Program: The Agricultural and Consumer Protection Act of 1973 (farm bill) requires that, starting July 1, 1974, all counties must switch from commodity food programs to food stamps. The effect of this provision will be cut off from supplemental foods 167,000 pregnant and nursing mothers and their children. Enactment of the WIC program is cited as the reason for abandoning the supplemental program, even though WIC projects have been awarded only to areas where there is no existing supplemental food program. The American Parents Committee will join with other concerned organizations to seek continuation of the supplemental food program; to continue authorizations allowing USDA to buy supplemental commodities at market prices; and to provide funds for administration of supplemental food programs. (These funds previously were provided under the Economic Opportunity Act.)

On a long-term basis, American Parents Committee will support efforts to extend federally-funded food programs to public and private non-profit residential children's institutions.

MISCELLANEOUS

Juvenile Justice: The American Parents Committee will continue to support legislation creating a National Institute for Juvenile Justice, which is scheduled for consideration early in the new session. S. 821, the principal bill, would provide fund authorizations for additional federal-supported training for juvenile court personnel, with special emphasis on upgrading both the quality and quantity of probation officers attached to juvenile courts. It would also be the first national clearinghouse for information on proven-effective programs on the prevention and control of juvenile delinquency.

The American Parents Committee also supports the *Runaway Youth Act*, which may be considered in conjunction with the Juvenile Justice Bill. The Runaway Youth Act would strengthen interstate reporting and interstate services for parents of runaway children; authorize research on the size of the runaway youth problem; and provide establishment. maintenance and operation of temporary housing and counseling services for transient youth.

UNICEF: Because of widespread famine in the African Sahel, and continuing crises in Bangladesh—most recently, flooding—the American Parents Committee will work for appropriation of the full authorization of $18 million as the United States' contribution to the United Nations' Children's Fund (UNICEF). Last minute action by the conference committee last year eliminated the $3 million increase for fiscal year 1974 approved by the Senate, which would have allowed for the $18 million contribution.

Family Planning: The American Parents Committee continues to support renewal of the Family Planning Services and Population Research Act of 1970, which has been continued until June 30, 1974, under a one-year extension. The bill has been under consideration separately in the Senate, but in combination with six other bills in a health revenue-sharing proposal in the House. We shall oppose the revenue-sharing approach, but in the event that it prevails, we will work for retention of all of the provisions of the family planning act.

HEW Reorganization: In concert with other concerned organizations, the American Parents Committee will alert Congress to the apparent violation of congressional intent resulting from the proposed reorganization of programs in HEW affecting children and their families. Plans published in the Federal Register eliminate an identifiable program staff at the regional as well as the federal level for Maternal and Child Health programs and for other programs authorized by the Public Health Service Act. Congress will be asked to appropriate funds for program personnel who will be assigned to other responsibilities. The APC recommends that there be an identifiable administrative unit in each regional office responsible for each program for children and families, and that those units be staffed by an adequate number of competent and experienced professionals.

Because many deplorable conditions affecting children are not easily remedied by legislation, the APC will work closely with organizations engaged in *litigation on behalf of juveniles*, especially where issues of social policy are concerned. Some of the issues are: (1) challenges to statutes which permit the incarceration of children in training schools and reformatories who have not broken the law; (2) the conditions of confinement in juvenile institutions; (3) the enforcement of rights accorded by the landmark case of *In re: Gault*, such as the right to counsel; (4) forcing the State to provide services to children in their own homes before dissolving families; (5) the right of children in foster care and institutions to a permanent family wherever possible, either through expeditious adoptions or return to their families.

This paragraph on Day Care should have been included before Day Care Licensing Codes:

Day Care: Although chances for a good developmental day care bill are slight, the American Parents Committee will, when the timing is most advantageous, work with other organizations for a high-quality program containing comprehensive developmental components, adequate funding, and retention of the 1968 *Federal Interagency Day Care Requirements*. We note with concern a possible trend toward inclusion of day care as an optional service in such legislation as the Comprehensive Manpower Act of 1973, without any requirements as to quality, Again we will insist upon languages requiring enforcement of the 1968 *Federal Interagency Day Care Requirements*.

WHO WILL PROGRAM THE PROGRAMERS?

Mr. GOLDWATER. Mr. President, it was my great pleasure to appear this morning before the Subcommittee on Constitutional Rights chaired by my very good friend, the senior Senator from North Carolina (Mr. ERVIN). The subject of my testimony was privacy and the computer.

In a line of decisions going back as far as 1891, the Supreme Court of the United States has recognized time and again that a fundamental right of personal privacy does exist under the Constitution. It was the theme of my testimony today that as we move closer to a personal data-banked society, privacy must be planned beforehand. It is for us to determine today just how much freedom shall remain for the individual in the future. I urged that we must take action now to program the programers while there is still privacy to cherish.

Mr. President, when one thinks about it, he is immediately aware that a data-bank society is nearly upon us now. Details of our health, our education, our employment, our taxes, our telephone calls, our insurance, our banking and financial transactions, pension contributions, our books borrowed, our airline and hotel reservations, our professional societies, our family relationships, all are being stored in computer systems at this time; and unless these computers are specifically programed to erase unwanted information, these details from our past can at any time be reassembled to confront us.

Mr. President, I asked the committee to answer the challenge of protecting personal privacy in the computer age by enacting a Federal code of safeguard requirements for automated personal data systems, which would be the first law of its kind in America. In my testimony, I also asked the committee to stop the spread of the social security number as a national population identifier and I called upon the President to take certain immediate steps regarding computers used by Federal agencies which would protect the right of privacy.

Mr. President, the specifics of the safeguards which I have recommended, and the reasons for establishing them, are all set forth in the complete text of the testimony which I offered this morning. In order that all Senators can consider the legislation which I have proposed, I ask unanimous consent that a copy of my testimony together with accompanying footnotes shall be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

WHO WILL PROGRAM THE PROGRAMERS?

Testimony by Senator Barry Goldwater before the Senate Subcommittee on Constitutional Rights, March 6, 1974

Mr. Chairman, it is a pleasure to join you today in your latest hearings on the subject of Computers and Privacy, a matter which I believe you investigated extensively in 1971. Though the primary focus of your current hearings is upon the use of criminal justice data banks, I know you are interested in the general subject of personal data bank systems and the ominous trend to national population numbering.

Mr. Chairman, I will devote my testimony to this broader subject because I have introduced legislation, S. 2810, which is now pending before this subcommittee, to establish safeguards for the individual regarding the keeping, use and accuracy of automated personal data systems of all types. The credit for having initiated the bill should honestly fall upon the shoulders of my son, Congress-

man Goldwater, Jr., who first introduced it in the House last September.

Mr. Chairman, we are not speaking about an alarmist's flight of fantasy. The computer era is already upon us. There are currently 150,000 computers in use in the United States [1] and some 350,000 remote data terminals. [2] Conservative estimates indicate that there will be 250,000 computers and 800,000 terminals by 1975.[3] Over 10% of all business expenditures on new plants and equipment in America is currently spent on the computer and its subsidiary systems.[4]

Revolutionary changes in data storage have taken place or are imminent. Computer storage devices now exist which make it entirely practicable to record thousands of millions of characters of information, and to have the whole of this always available for instant retrieval. For example, the National Academy of Sciences reported in 1972 "that it is technologically possible today, especially with recent advances in mass storage memories, to build a computerized, on-line file containing the compacted equivalent of 20 pages of typed information about the personal history and selected activities of every man, woman, and child in the United States, arranging the system so that any single record could be retrieved in about 30 seconds." [5]

On larger systems today, the basic unit of time measurement is the nanosecond—one billionth of a second. It is hard for us to conceive but one nanosecond is to one second that one second is to 33 years! [6]

Distance is no obstacle. Communications circuits, telephone lines, radio waves, even laser beams, can be used to carry information in bulk at speeds which can match the computer's own. Cross-country, trans-Atlantic, and inter-stellar transmission between computer units is not only feasible, but it is being done.

Time sharing is normal. The time sharing systems with which we are familiar today are adequate for up to 200 users who are working at the same time. But we are now hearing of a system whereby it is feasible for there to be several thousands of simultaneous users or terminals.[7]

An international body of experts who surveyed this subject in 1971 concluded that it is likely that, within the next 20 years, most of the recorded information in the world will be on computers and more than half the telephone calls will be communications to and from computers.[8]

What does all this mean to you and me? How are we personally involved or associated with these developments? All we have to do is think of our daily lives.

Details of our health, our education, our employment, our taxes, our telephone calls, our insurance, our banking and financial transactions, pension contributions, our books borrowed, our airline and hotel reservations, our professional societies, our family relationships, all are being handled by computers right now.

As to strictly governmental records, it was calculated in 1967 that there were over 3.1 billion records on individual Americans stored in at least, 1,755 different types of Federal agency files.[9] Need I remind anyone that unless these computers, both government and private, are specifically programmed to erase unwanted history, these details from our past can at any time be reassembled to confront us?

Also, I might mention census data, which most of us think as being sacrosanct. Even census statistics, forbidden by law from disclosure in identifiable form, can be quite revealing.

The Census Bureau operates a popular line of business selling statistical summaries broken down into census tracts covering urban neighborhoods as small as a thousand families each. Any person or any organization can purchase this information which, while not containing specific names, does give a detailed outline of a small sector of the population, with size and type of housing, the way people travel to work, their type of work, their ages and sexes, all in a given neighborhood.[10]

This information could be very valuable to those who would manipulate or influence social conduct. Matching other lists which already exist, relatively simple computing equipment can enable anyone wanting to know to determine the location of all persons in a small category.[11] Thus, we can lose our anonymity without knowing it. Without our awareness, we become vulnerable to the possibility that this information can be put to use by administrative planners or policy makers for purposes of our social manipulation or conditioning.

If this were not enough, I might remind my colleagues that in 1966, the then Bureau of the Budget brought before Congress a comprehensive proposal to create a vast computerized national data center which would serve at least 20 different federal agencies.[12] The people who proposed and evaluated this recommendation for the government, testified at House hearings on the matter that there was no way to avoid keeping records about specific individuals and individual attributes in this data center. Each of the government witnesses admitted that the records that would be included in the central data bank would leave a trail back to particular individuals.[13]

Although this idea was put aside for the moment, after being exposed in the glare of Congressional scrutiny, the time to think about the future is now. We must design the safeguards, and set the standards, of personal privacy now while a national numbering system is still only a mental concept. We must program the programmers while there is still some personal liberty left.

The question we must face was posed by Malcolm Warner and Michael Stone, a behavioral scientist and a computer scientist, who ask in their book, The Data Bank Society:

"If one central source has all the data concerning our life-history, and is bent upon regulating our behavior to conform to the prescribed goals of society, how can this be opposed? Only by the society demanding that sufficient thought be taken before the threat becomes a *fait accompli*." [14]

What these writers recognize is that a welfare-statism society, in order to control its members, needs information. Total control requires total information. On the basis of this information, conclusions can be drawn, plans can be made, for directing us.[15]

Other writers reach the same conclusion. Paul Muller and H. Kuhlmann, writing in the International Social Science Journal, conclude that:

"Integrated information-bank systems, at least looked at from the aspect of privacy, might bring with them the imminent danger of a one-sided alteration of the relationship between institutions and individuals, with the possibility of the individuals' becoming open to scrutiny by the institutions, while the institutions themselves remained as complex and 'inscrutible' as before . . ." [16]

Mr. Chairman, what we must be alert to is that the computer society could come about almost by accident, as computers proliferate and integrate.

We did not start to build a nationwide telegraph network in the 1840's, only independent telegraph links. But it was not long before we had an integrated national network.

We did not start to build a nationwide telephone system in the 1890's. Yet, today we have a highly integrated telephone network.

Automated information systems have the same qualities as communications systems. It is cheaper to share information by tying together independent systems than by building a great number of duplicative systems.[17]

Thus, we are building today the bits and pieces of separate automated information systems in the private and government sectors that closely follow the pattern to the present integrated communications structure. The direction of growth is clear. Increasingly, data stored in computer memory banks is being shared by several users.[18] Independent credit systems built to cover small areas find it economical to cross-connect. Airline systems swap information back and forth to get reservation information on individuals.

It is no wonder that in the summer of 1972, the International Commission of Jurists, in publishing a study on the right to privacy in ten Western nations, concluded that: "The latest and potentially the greatest threat to privacy is the recording, storing, and dissemination of personal information by computers." [19]

Mr. Chairman, it is the theme of my testimony that, as we move closer and closer to a fully data-banked society, privacy must be planned beforehand. It is for us to determine today just how much freedom shall remain for the individual in the future.

Mr. Chairman, I would propose to answer this challenge by legislating into law a Federal code of safeguard requirements for automated personal data systems, the first law of its kind in America.[20]

My proposal is generally consistent with the recommendations of the Secretary's Advisory Committee on Automated Personal Data Systems of the Department of HEW. This landmark report, canvassing the total impact on the individual, is a logical starting point from which Congress can begin to mold its own solutions.

The basic proposals of the Secretary's Committee, as I have incorporated them into S. 2810, are these:

1. There must be no personal data system whose very existence is secret.

2. There must be a way for an individual to find out what information about him is in a record and how that information is to be used.

3. There must be a way for an individual to correct information about him, if it is erroneous.

4. There must be a record of every significant access to any personal data in the system, including the identity of all persons and organizations to whom access has been given.

5. There must be a way for an individual to prevent information about him collected for one purpose from being used for other purposes, without his consent.

The only exception which my bill would make from these general rules is where I believe it is necessary to protect a broader national interest in the public safety, particularly in the categories of classified foreign affairs and defense secrets and criminal justice records which are pertinent to legitimate law enforcement purposes. If the exemptions of my bill are not broad enough, I am willing to make needed changes for the public safety.[21] In this time of highly organized criminal forces who are mobile worldwide, I feel strongly that we should not tie the hands of those who would protect us in back of themselves.[22]

Mr. Chairman, another important provision of my bill would stop the growing use of the social security number as a national population identifier. There already have been issued a total of 160,000,000 social security numbers to living Americans.[23]

These numbers are used not only for the social security program, but for State unemployment insurance programs; for Federal and State taxpayer identification; for identification of all Civil Service employees; for registration of all purchasers of United

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Footnotes at end of article.

States Savings Bonds and other government securities; to identify FAA pilot records; to identify all recipients of State old age assistance and medicare benefits; to identify the retirement records of all Civil Service retirees; for Veterans Administration hospital admission numbers; to locate the medical histories of many Indians; as the Service number of all military personal; to identify all customers of banks, of savings and loan associations, of credit unions, and of brokers and dealers in securities; for use in receiving drivers licenses; to identify all applicants and beneficiaries of public assistance programs; to identify aliens working in the United States; and to identify children in the ninth grade and above in many school systems, among other uses not mentioned.[24]

No statute or administrative rule prohibits use of the account number in other record systems. Indeed, an Executive Order by President Roosevelt is still in effect requiring that any Federal agency establishing a new system for personal identification *must* use the Social Security number.[25]

Mr. Chairman, it is time to halt this drift toward reducing each person to a number. Professor Charles Reich has aptly referred to the idea of giving each person a population number as tying a tin can around him. All the rest of his life, he would have this tin can jangling along behind him. We would all become marked individuals.[26]

A national population number would deprive us of what anonymity we each retain as individuals. Once identifiable to the administrator in government or business, by an exclusive number, we would become vulnerable—to being located wherever we are, to being manipulated, to being conditioned, to being coerced.

It is my belief, Mr. Chairman, that in order for the individual to truly exist, some reserve of privacy must be guaranteed to him. Privacy is vital for the flourishing of the individual personality.[27]

By privacy, I mean the great common law tradition that a person has a right not to be defamed whether it be by a machine or a person. I mean the right "to be let alone"—from intrusions by Big Brother in all his guises.[28] I mean the right to be protected against disclosure of information given by an individual in circumstances of confidence, and against disclosure of irrelevant embarrassing facts relating to one's own private life, both elements having been included in the authoritative definition of privacy agreed upon by the International Commission of Jurists at its world conference of May, 1967.[29]

By privacy I also mean what the Supreme Court has referred to as the embodiment of "our respect for the inviolability of the human personality" [30] and as a right which is "so rooted in the traditions and conscience of our people as to be ranked as fundamental." [31]

Mr. Chairman, I call upon Congress to protect the right of privacy by enacting the safeguards I have proposed. In addition, I call upon the Executive Branch to take the following immediate steps.

First, the President should announce privacy requirements under section 111 of the Federal Property and Administrative Services Act of 1949, which allows him to establish "uniform Federal automatic data processing standards" for all computers used by Federal agencies. Second, a Citizen's Guide to Files should be issued by each government agency, specifying the nature of each of its files containing information about individuals; the class and number of persons covered; the uses to which the file is put; and whether individuals have access to any of their records in the file.[32] Third, the President should cancel the Executive Order of 1943 which now spreads the use of the social security number.

What we must remember, Mr. Chairman, is that privacy in a data bank society must be planned. Privacy, as liberty, is all too easily lost. I urge that you act now while there is still privacy to cherish.

FOOTNOTES

[1] This estimate refers to private and government computers, including mini-computers. Source: Congressional Reference Service, Library of Congress.

[2] M. Warner and M. Stone, *The Data Bank Society*, at 33 (1970).

[3] A. Westin and M. Baker, *Databanks in a Free Society*, National Academy of Sciences Project on Computer Databanks, at 327 (1972).

[4] *The Data Bank Society*, at 41.

[5] *Databanks in a Free Society*, at 320–21. (Emphasis in original.)

[6] *The Data Bank Society*, at 42.

[7] P. Muller and H. Kuhlmann, "Integrated information bank systems, social book-keeping and privacy," XXIV Int'l. Social Sci. J. 584 (1972).

[8] The International Commission of Jurists, "The Legal Protection of privacy: A comparative survey of ten countries," XXIV Int'l. Social Sci. J. 427 (1972).

[9] "Government Dossier (Survey of Information Contained in Government Files)," committee print of Subcommittee on Administrative Practice and Procedure, Comm. on the Judiciary, U.S. Senate, 90th Cong., 1st Sess., at 9 (Nov. 1967).

[10] U.S. Department of Health, Education, and Welfare, "Records Computers and the Rights of Citizens," Report of the Secretary's Advisory Committee on Automated Personal Data Systems, at 293 (July, 1973).

[11] *Id.*, at 293–94.

[12] See generally "The Computer and Invasion of Privacy," Hearings Before a Subcomm. of the Comm. on Govern. Operations, House of Representatives, 89th Cong., 2nd Sess. (1966).

[13] *Id.*, at 96–98, 112.

[14] *The Data Bank Society*, at 73.

[15] *Id.*, at 214–15.

[16] XXIV Int'l Social Sci. 596 (1972).

[17] "The Computer and Invasion of Privacy," at 121–22.

[18] In 1972, a National Academy of Sciences Project on Computer Databanks concluded that: "It is the increased feasibility of data sharing . . . that will be the most important effect of advances in computer technology during the next eight years." *Databanks in a Free Society*, at 342.

[19] XXIV Int'l. Social Sci. J. 578 (1972).

[20] In 1973, Sweden adopted the only existing nationwide statute aimed specifically at the regulation of computerized personal data systems. This law is essentially a licensing program.

[21] In this connection, I suggest that all bills on privacy before the committee be tested against the realities of daily law enforcement activities.

For example, take the case of the police officer who investigated a traffic incident in Peoria, Illinois, when a motorist reported that her car has been side-swiped by another vehicle. The investigating officer found an automobile fitting the description approximately 18 blocks from the scene and immediately ran a computer check on a license plate found hidden under the seat. This check led to information that the drivers of the car were suspects in a homicide case. The individuals later admitted that they had participated in the murder and robbery of a young woman and the theft of her car. Under the language of one of the bills now before the committee, S. 2963, this information could not have been given.

Neither arrest, nor criminal history, record information could have been disclosed in this case because the requesting officer did not arrest, detain, or commence criminal proceedings against the occupants of the car before requesting the information as required by section 202. Since there were no outstanding arrest warrants in this case, not even wanted persons information could have been supplied. (Section 102 (13).)

Unless a very broad interpretation is given to S. 2963, it would also prohibit many other proper inquiries by police officers. I am referring to pre-arrest inquiries made while merely following a car or after a motorist is stopped for a minor traffic matter, perhaps amounting to no more than a warning. I have come across many cases where State Police troopers have used their judgment in these situations to run an information check and have found that the driver of the car was wanted in a city hundreds of miles away on charges of armed robbery, rape, or murder. Also, we must consider the pre-arrest situation where police investigators must be able to determine, before approaching a suspect, whether he may be armed and dangerous.

Both S. 2963 and S. 2964 require that all criminal justice information must be sealed, after specified periods of years, on the basis that the information is "unlikely to provide a reliable guide to the behavior of the individual."

This unverified assumption is ignorant or uncaring of the fact that great numbers of criminal repeaters commit their subsequent crimes after the time periods of the bills. Though access to sealed information may be granted by court warrants, the mechanics of the sealing procedures would often make it impossible for the police to know what files to ask for or to reach the files in time.

The sealing provisions of S. 2963 and and S. 2964 also appear to be based upon an assumption that failure to prosecute or convict an accused within a specified time invariably means that the arrest was unfounded. To the contrary, the LEAA reports that a landmark study now underway will show that non-cooperation from witnesses is responsible for about half the criminal prosecutions that are scrubbed. Destruction of evidence is the cause in a significant number of additional failures.

I would caution that if we are not careful to avoid disruptions of essential law enforcement functions, the effort to prevent a police state may only result in creating an anarchy in which we all are held hostage to the whims of terrorists and kidnappers.

[22] Dr. Donald Michael, Director of the Center for Research on the Utilization of Scientific Knowledge at the University of Michigan, believes: "A federally integrated attack on crime, fully using the ability of the computer to organize and interpret data about criminals and crimes, eventually would free many terrorized people from threats of death or disaster and open business opportunities now preempted by the freewheeling criminal." "The Computer and Invasion of Privacy," at 186.

[23] February, 1974, estimate by Social Security Administration.

[24] "Records, Computers and the Rights of Citizens," at 115–121.

[25] Exec. Order 9397, Nov. 22, 1943.

[26] "The Computer and Invasion of Privacy," at 42.

[27] Based on anthropological and sociological studies, and evidence from the British Psycho-Analytical Society and the Royal College of Psychiatrists, the Committee on Privacy of Great Britain reported in 1972 that the need for privacy is a basic, natural one, important both to individual physical and mental health and to "the imaginativeness and creativity of the society as a whole." Report of the Committee on Privacy, Home Office, Great Britain, at 33–34 (July 1972).

[28] In 1970, I relied upon the right "to be let alone" as the Constitutional basis of an amendment I offered, which became part of the Postal Reform Law, protecting individuals from intrusions of unsolicited smut mail. 39 U.S.C. 3010; P.L. 91–375, § 14, Congressional findings. In this context of privacy,

see *Rowan v. United States*, 397 U.S. 728 (1970); *Bread v. Alexandria*, 341 U.S. 622 (1951); *Rent-R-Books, Inc. v. U.S. Postal Service*, 328 F. Supp. 297 (D.C. N.Y. 1971); *Universal Specialties, Inc. v. Blount*, 331 F. Supp. 52 (D.C. Cal. 1971).

[29] Conclusions of the Nordic Conference on the Right to Privacy, 1967, reprinted in XXIV Int'l. Social Sci. J., at 419 (1972).

[30] *Tehan v. Shott*, 382 U.S. 406 (1966).

[31] *Griswold v. Connecticut*, 381 U.S. 497 (1965) See also *Roe v. Wade*, 410 U.S. 113, 153–55 (1973).

[32] I am indebted to the National Academy of Sciences Report on *Databanks In a Free Society* for the idea of a Citizen's Guide to Files. See pp. 362–63.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I would not be calling the attention of the Senate to the Genocide Convention unless I was convinced that it is as vitally important today as when it was first drafted.

The relevance of the treaty is readily apparent. Last summer I spoke at length regarding the senseless policy of genocide being carried out in the African nation of Burundi. Last Sunday, in an Op-Ed article in the New York Times, Roger Morris detailed the slaughter of the majority tribe, the Hutus, by the ruling minority, the Tutsi. It is my firm conviction that the United States would have been more successful in halting such atrocities if we were a signatory of this convention. As the situation stands today, our protests of moral outrage have a hollow ring.

This then is the reason for ratification. As long as such outrageous acts occur throughout the world, the United States must demonstrate its total opposition to them. Ratifying the Genocide Convention would equip us with the moral leadership that we need. I urge my colleagues to join with me in seeking ratification.

Mr. President, we should have been the first nation to ratify this treaty. We must act before we are the last.

GHANA: 17TH ANNIVERSARY OF INDEPENDENCE

Mr. HARTKE. Mr. President, the Republic of Ghana is celebrating today, March 6, its 17th anniversary of independence, and I wish to congratulate the people of this talented nation on this happy occasion.

Since independence, Ghana has made remarkable progress in all fields of development. She has built roads, hospitals, new townships, developed rural electrification and has supplied her people with pipe-borne water, and other social amenities. New schools have been built and the old educational system has been changed to reflect the needs of their society.

The Government of the National Redemption Council, led by Col. Ignatius Kutu Acheampong, has shown practical understanding of the young nation's problems by injecting strict discipline into the economy. Imports have been controlled to appreciable levels and every effort has been made to boost exports in textiles, wood products, aluminum alloys, processed cocoa products, and so forth. This has yielded positive results; the high price of cocoa, timber, and gold on the world market has also added more inputs into the economy and, as a result, unemployment, inflation and high prices show a downward trend.

Under private and official auspices, there has been an extensive exchange of students; and American tourists are visiting Ghana in increasing numbers. Ghanian professors are encountered frequently on American campuses, and Americans serve on the faculties of Ghana's three universities.

Much of the cocoa consumed in the United States originates in Ghana, where American businessmen and investors play a significant role in the local economy. Throughout Ghana's independent history, we have been a major source of foreign assistance, much of which was employed to construct the Akosombo Dam, whose generators power one of the world's major aluminum smelters.

The National Redemption Council, which celebrated the second anniversary of its rule on January 13, has confronted severe economic problems. Heavy reliance on cocoa receipts, chronic trade and payments deficits, massive inherited debts, and high unemployment, are just a few in a nation where modest growth has been undercut by a rapid rise in population. To overcome these interrelated problems, the National Redemption Council inaugurated in 1972 a self-reliance program designed to encourage greater agricultural self-sufficiency and diversification, as well as import restraint. "Operation Feed Yourself" was launched in Northern Ghana recently with the object of increasing agricultural production of food and industrial crops and diversifying Ghana's economy in order to reduce overdependence in cocoa and timber. Ghanians are determined to make the nation self-reliant and economically viable.

These measures, together with a fortuitous rise in cocoa prices, largely explain the trade and payments surpluses experienced last year, as well as impressive growth in Ghana's foreign reserves. As we salute Ghana's people on this anniversary, we wish their Government success in overcoming the economic problems which afflict the nation, and we congratulate Ghana's leaders on their progress to date.

SEVENTEENTH ANNIVERSARY OF THE INDEPENDENCE OF GHANA

Mr. THURMOND. Mr. President, the country of Ghana today celebrates the 17th anniversary of its independence. In commemoration of this event, I have been asked to insert in the CONGRESSIONAL RECORD a brief statement of the remarkable progress that Ghana has made in the last 17 years.

Accordingly, Mr. President, I ask unanimous consent that this statement, entitled "Ghana Is 17 Years Old Today, March 6, 1974," be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

GHANA IS 17 YEARS OLD TODAY, MARCH 6, 1974

Since independence seventeen years ago, Ghana has made remarkable progress in all fields of development. She has built roads, hospitals, new townships, developed rural electrification and has supplied her people with pipe borne water, and other social amenities. New schools have been built and the old educational system has been changed to reflect the needs of our society.

The Government of the National Redemption Council, led by Colonel Ignatius Kutu Acheampong, has shown practical understanding of our problems by injecting strict discipline into the economy. Imports have been controlled to appreciable levels and every effort has been made to boost exports in textiles, wood products, aluminium alloys, processed cocoa products, etc. This has yielded positive results; the high price of cocoa, timber and gold on the world market has also added more inputs into the economy and, as a result, unemployment, inflation and high prices show a downward trend. The third phase of "Operation Feed Yourself" was launched in northern Ghana recently with the object of increasing agricultural production of food and industrial crops and diversifying Ghana's economy in order to reduce overdependence on cocoa and timber. Ghanians are determined to make the nation self-reliant and economically viable.

Ghana's economic and industrial policies provide for viable foreign investment and partnership in certain economic areas. The Capital Investments Board provides incentives and liberal concessions to prospective investors who are willing to co-operate with us on equal terms in prescribed areas of operation.

The expansion of Ghana's trade with the United States and other North and South American countries, including the Caribbean, will be vigorously pursued by the National Redemption Council.

With regard to Foreign Affairs, Ghana has continued to build effective links with her neighbors, worked towards a Common Market in West Africa and supported vigorously the Organization of African Unity, the United Nations and its Specialized Agencies, the Third World, the Non-Aligned Group and other regional groups in their efforts to free Africa from colonialism and racialism. Within these organizations, Ghana will continue to join all peace-loving nations in their programmes to raise the living standards of peoples all over the world.

It is our hope and belief that the current achievements of the National Redemption Council will continue to inspire Ghanians in all walks of life so that Ghana shall be a shining example to all lovers of peace, freedom, justice and human progress.

THE EMBASSY OF GHANA.

USDA PROMULGATES DISCRIMINATORY FOOD STAMP REGULATIONS FOR PUERTO RICO

Mr. CRANSTON. Mr. President, the regulations just promulgated by the Department of Agriculture, setting forth the "eligibility" and "coupon allotment" schedules for the food stamp in Puerto Rico, are in clear violation of the Food Stamp Act and wrongfully discriminate against the people of Puerto Rico. The Department's newly announced coupon allotment provides only $122 monthly to a family of four, instead of the $142 that a mainland family gets, thus harming Puerto Rico's poor and violating our statutory provisions as well. The income guidelines are approximately 14 percent lower than the mainland's and will ex-

clude many hungry people from the program.

According to the Food Stamp Act as amended in 1971, eligibility schedules for the territories are to "reflect the average per capita income" for the territory involved. In Puerto Rico, where the per capita income is $1,713 as of 1972, eligibility would start at that figure for a one-person household and would be increased by that amount for each additional member of the household. This would be the method of determining household eligibility in the Puerto Rican food stamp program, but such eligibility in the Puerto Rican food stamp program, but such eligibility standards would not be permitted to exceed the levels of the mainland standards.

According to the Food Stamp Act coupon allotments are to reflect the "cost of obtaining a nutritionally adequate diet" in the respective territories, although such allotments are not to exceed those in the 50 States. However, where we know that the cost of obtaining food in Puerto Rico is as much as 120 percent of what it is in the continental United States, "coupon allotments" may not be set at a lower level than has been presented for those States. Unfortunately, despite the fact that food costs substantially more in Puerto Rico than it does in the United States, and since therefore the "cost of a nutritionally adequate diet" must be higher on the island than it is on the continent, USDA set lower coupon allotments for Puerto Rico. This clearly is contrary to the Food Stamp Act.

I urge the Secretary to rescind these income-eligibility and coupon allotment schedules which will enable the people of Puerto Rico to fully participate in this vital program. Swift action by the Secretary is necessary. This is because the current law, as amended last August, now requires that the food stamp program be implemented throughout Puerto Rico by the beginning of fiscal year 1975—July 1, 1974. The only exception to this requirement is if the Commonwealth government, like any of the 50 States, clearly demonstrates that it is administratively "impossible or impracticable" to implement the program in any particular political subdivision. Since we expect the Commonwealth to speed up its recently announced timetable and meet the July 1, 1974 deadline, it is necessary for the Agriculture Secretary to act quickly. His regulation should be changed at once.

UNDERSTANDING THE CONSTITUTIONAL REMEDIES OF RESIGNATION AND IMPEACHMENT

Mr. BROOKE. Mr. President, the events of recent months have forced both the Congress and the country to confront squarely the issues of resignation and the impeachment process. Yet, regrettably, many Americans still do not comprehend fully the meaning and significance of these two terms. This confusion has led to an excessive, almost unnatural fear of both resignation and impeachment. Last week, in a speech to the students of Marquette University in Milwaukee, Wis., I sought to analyze these issues within the context of our present situation. Although we must be cognizant of the risks inherent in either resignation or the impeachment process, we must not shirk our constitutional responsibilities merely because the course of action may be difficult. If our country is to remain a nation of law, every citizen must be willing, no matter what the personal sacrifice, to do what must be done.

Mr. President, I ask unanimous consent to have my remarks printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR EDWARD W. BROOKE

RESPONSIBILITIES INHERENT IN A CONSTITUTIONAL DEMOCRACY

Impeachment! Resignation!

These headline grabbing words instill fear in the hearts of many Americans. Sadly they are widely viewed as unthinkable at best and unspeakable at worst. But events propel these terms into the forefront of the American mind and the American vocabulary. And the people of our nation must neither flinch nor falter at their thought or mention.

Indeed an educational process is in order to dispel the apprehensions; to correct the misconceptions; and to end the numbing confusion. The time has come to meet head on the issues of impeachment and resignation. We must remove the clouds of ambiguity that envelop them!

The events of the past year make it painfully apparent that an extraordinary remedy to the nation's leadership ills must be prescribed. The Watergate revelations have shocked the American people on almost a daily basis. Accounts of criminal misdeeds, unethical conduct, and the attempted subversion of our political processes by members of the President's staff and campaign committee have left America stunned. A chronicling of just the past few months is sufficient to make clear the need for decisive action.

In October, the firing of the first Watergate Special Prosecutor, Archibald Cox, and the resignations of Attorney General Elliot Richardson and Deputy Attorney General William Ruckelshaus enraged the nation. More than one million telegrams were sent to Congress demanding the impeachment or resignation of President Nixon.

In November it was disclosed that two of the subpoenaed tapes that were the objects of extensive litigation during the summer and the fall did not exist. Shortly thereafter it was announced that a third tape had a mysterious eighteen-and-one-half minute gap that coincidentally covered the entire conversation between President Nixon and H. R. Haldeman three days after the Watergate break-in.

And then on January 15, in perhaps the most startling revelation of all, a panel of tapes experts, selected jointly by the White House and the District Court, unanimously concluded that the eighteen-and-one-half minute gap was the result of five, and possibly nine, deliberate erasures.

The Watergate scandal is unprecedented in its scope. Thus far we have witnessed the departure of at least sixteen major Administration officials, including the President's top two White House aides, two Attorneys General, an F.B.I. Director, and the President's counsel.

In addition, twenty members of the Nixon Administration have either been convicted or indicted for criminal offenses. And it is predicted that major indictments are still to come.

All of this has had a devastating effect on the American people's confidence in their political institutions. And, unfortunately, the nation has especially lost its confidence in its President.

This loss of confidence is reflected in all the polls and surveys. The Gallup Poll of February 4th indicated that 64 per cent of those polled do not approve of President Nixon's conduct in office. Those approving dropped to a new low of 26 per cent. The latest Gallup Poll shows a slight increase of those approving to 28 per cent. And, most alarming is that three-fourths of the country believes that the President had some role in the planning or the cover-up of Watergate.

Congress is held in even lesser esteem according to a recent Harris Poll. The poll found only 21 per cent of those polled willing to give Congress a positive rating. I believe this reflects the dissatisfaction of the people with a Congress of which members are quicker to oppose than propose and more inclined to rhetoric than action.

One month ago, in his State of the Union message, President Nixon said that one year of Watergate is enough. In one sense he was absolutely correct—one night of Watergate is too much! But, Watergate and all that has subsequently come under the heading of that umbrella-like word did occur. And, our system of justice cannot rest until the American people have learned the whole truth and those responsible have answered to the law. To accept anything else would be a repudiation of our highest principles.

On November 4th, in response to a question on ABC's Issues and Answers, I stated that I had reluctantly come to the conclusion that it would be in the best interests of the country if President Nixon resigned. Ten days later, at a meeting in the White House, I reviewed my thoughts on resignation with Mr. Nixon personally. And, tonight I continue to believe that the President's resignation would serve the best interests of the country.

The reasons for my advocating resignation are many. Most importantly, the President's resignation would spare the country the prolonged agony of impeachment proceedings, trials, and the dreaded prospect of a crippled presidency.

Unencumbered by Watergate and related matters, a new President, in this instance, Gerald Ford, would be able to devote all of his energies to the resolution of our country's problems. He could concentrate on reconciliation and thus eliminate the atmosphere of confrontation that has so consistently dominated the past twelve months.

A significant consideration in my decision has been the effect of Watergate on the Republican Party. I have long held that the preservation of the two party system is vital to the political stability and vitality of our nation. Our two-party system is now threatened more than at any time in our history.

In the past nine months the popularity of the Republican Party has decreased at an alarming rate. According to recent polls, in congressional races nationwide, the Democrats were preferred over Republicans by a 58–29 margin. Senator Barry Goldwater has released polls that show a 10 per cent drop in support for G.O.P. candidates. Most recently in Michigan's 5th District, held by Republicans since 1910 and by Vice President Ford since 1948, a Democrat was elected over a Republican by a 53%–46% margin. And Watergate was the major issue in the campaign. Another indication of the diminishing strength of the Republican Party is that no fewer than eighteen Republican representatives have already announced that they would not seek re-election. And it is difficult, in too many cases impossible, to recruit Republican candidates for the 1974 congressional races.

If this Republican dilemma continues to exist, or worsens, the result would be an unprecedented disaster for Republicans in 1974 and 1976 and thus for the country, which de-

pends on the balance and restraint of our two party system.

It is for these reasons that I suggest resignation as the proper course of action. As painful as it may be, and despite obvious difficulties, I believe it to be superior to the alternatives available to us. It offers us the most expeditious means of restoring the confidence of the American people in their governmental processes. It would not be a panacea for our ills, but it would offer us an opportunity to begin anew.

Opponents of resignation claim that it is an extra-legal precedent and that it will "destroy the presidency." I believe both arguments are specious.

First, the Constitution explicitly considers resignation in two different sections. Article II, Section I, clearly provides for removal of a President through "Resignation or inability to discharge the Powers and Duties of the Office." The 25th Amendment to the Constitution permits the President to resign if he acknowledges that he is "unable to discharge the powers and duties of his office." Obviously, resignation cannot be deemed unconstitutional or "extra-legal."

Other critics of resignation fear that it would mean that future chief executives would be hounded out of office when enough voters become disenchanted with them.

But, such critics fail to perceive the essential distinction between this case and those of past and perhaps future presidents. This President is not being asked to leave office because of a fundamental disagreement with his policies and a concommitant slump in the polls. On the contrary, resignation is suggested because President Nixon, based on the misdeeds of so many of his chief subordinates, no longer commands the consent of the governed. In the words of Roger Crampton, the Dean of the Cornell Law School, it is doubtful that resignation would set a precedent since in this case there was a "criminal conspiracy emanating from the White House. God help us if it happens again."

But, if, as President Nixon repeatedly suggests, he remains steadfastly opposed to resignation, then we have no recourse but to proceed with the impeachment inquiry in the House of Representatives.

I am not saying that I believe Richard Nixon should be impeached or removed from office. What I am saying is that there is now sufficient evidence before us that warrants, indeed demands, an impeachment investigation. And, we have a constitutional obligation to weigh the sufficiency of evidence as to whether further action is in order.

Americans have an almost preternatural fear of the impeachment process. Raoul Berger, the distinguished constitutional historian, suggests: "Impeachment, to most Americans today, seems to represent a dread mystery, an almost parricidal act, to be contemplated, if at all, with awe and alarm."

Yet, even if, as Lord Bryce once put it, impeachment is the heaviest artillery in the legislative arsenal, it should not instill such unreasonable fear. Though an exceptional remedy, it is not a novel one. The roots of impeachment go back as far as Fourteenth Century England. Impeachment, said the House of Commons in 1679, was the "chief institution for the preservation of government."

Impeachment is mentioned no less than five times in our Constitution. The Founding Fathers were realists. They recognized the fallibility and weakness of human nature. They drafted a Constitution replete with checks and balances to prevent arbitrary action by any one Branch of government.

Perhaps the remedy of impeachment is the harshest provision in the Constitution. But we must remember that above all else the colonists dreaded a chief executive who would exceed the proscribed powers of his office. The impeachment process was to be "a bridle" upon the President, explained the *Federalist Papers*, and it was enacted out of fear of "encroachments of the executive."

Because of the importance they attached to it, impeachment constitutes a deliberate breach in the separation of powers, so that no arguments drawn from that doctrine (such as executive privilege) may apply to the preliminary inquiry by the House or the subsequent trial by the Senate.

And it is herein that I see the greatest portent for a Constitutional confrontation, unsurpassed in its enormity and effect. If through defiance or reluctance, the President seeks to impede or thwart the impeachment investigation he may very well find himself subject to impeachment on these grounds alone. I hope, for the nation's and his sake, that President Nixon will cooperate fully with the House of Representatives without any hesitation or qualifications.

The very idea of a presidency kept in check seems startling to many Americans today. Yet, the Founding Fathers were not radicals; it is we who have built up an almost mystical concept of an "Imperial" presidency.

The framers of the Constitution made impeachment and removal an arduous process. It was not designed to be used frivolously. It was meant to be an extraordinary constitutional proceeding whereby a president suspected of committing criminal acts, abuses of power or serious offenses against the public interest could either be exonerated or removed from office. And, that is precisely the situation we face today.

The term impeachment itself is often misunderstood. Impeachment is not synonymous with the removal of the President. Strictly speaking, impeachment refers solely to the action of the House of Representatives. When the House decides to initiate an impeachment inquiry, it instructs the House Judiciary Committee to investigate reports or charges of executive misconduct. If the Judiciary Committee determines that the President has committed an impeachable offense it draws up Articles of Impeachment and reports them to the full House. The House debates and then votes on the Articles. If a majority of the House votes in favor of the Articles, the President is considered impeached. But this is not a verdict of guilt. Impeachment is more analogous to a grand jury indictment.

The Articles are then filed with the Senate, and the Senate serves them on the accused. The trial in the Senate has the Chief Justice of the United States Supreme Court acting as presiding officer and the Senate acting as judge and jury. A two-thirds majority vote of the Senate is needed to convict. Conviction results in removal from office and a prohibition from running for future public office.

One must concede that the inherent risks involved in pursuing a course of impeachment are real and many. Impeachment proceedings could very well be a long, traumatic, and tortuous experience for the country. Impeachment could cause extreme bitterness and divisions among Americans, leaving the presidency immobilized while it ran its course. And, there is the additional factor that a trial in the Senate resulting in acquittal by slightly more than one-third of the Senators would further diminish the President's already gravely impaired ability to govern.

It is necessary to weigh against the risks of impeachment the inescapable costs of a failure to initiate impeachment proceedings. In my opinion avoidance of the impeachment process at this time would have a far more devastating effect upon the fabric of the American body politic than the impeachment proceedings themselves. For their avoidance would mean the relinquishing of one of this country's most precious heritages—the rule of law.

Yet, instead of confronting the disturbing remedies that the Constitution provides, many Americans are willing to tolerate, or ignore, the present situation. They forget Justice George Sutherland's admonition: "If the provisions of the Constitution be not upheld when they pinch as well as when they comfort, they may as well be abandoned."

A recent Roper Poll amply demonstrates this attitude. According to the Roper Poll, almost eight out of every ten Americans believe that the President has committed a serious crime. The Poll shows that 45 per cent of the people want Mr. Nixon impeached while 44 per cent oppose impeachment—but only 11 per cent oppose impeachment because they think the President is innocent. The other opponents of impeachment simply fear the destructive impact impeachment might have on the nation.

Other surveys underscore this paradox. One poll shows that the majority of the American people do not want President Nixon to stay on as President of the United States for the next three years. Yet, a very definite majority expect that he will.

These polls seems to say that many Americans have not only lost confidence in their leaders and institutions, but in themselves. How long, I wonder, can our democracy survive the degree of equanimity—or perhaps inurement—that seems so prevalent today? For, if the people are willing to tolerate government law-breaking, we will cease to have a government of laws.

As Justice Louis Brandeis stated a half a century ago:

"Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

The American people must not wallow in apathy. And the Congress cannot shirk its constitutional obligations.

And I believe our institutions are durable. Time and time again our country has proved its resiliency. If once more we are asked to prove it, let us go forth and meet the new challenge. Let us not hold back because the way may be difficult. If it is the right thing to do, let us not proceed with undue trepidation, but with the confidence expected of a free people.

The questions of registration and impeachment, although of crucial importance to the American people, pertain basically to the narrow issues of Watergate culpability and responsibility. It is my hope that whatever the resolution of these issues, we will not ignore the lessons of Watergate.

If Watergate is to have any lasting meaning or significance for the American people, we will have to understand what factors contributed to its inception. Only then will we be able to undertake corrective action and prevent reoccurrences.

Watergate is the result of many complex factors, but perhaps foremost, it represents the culmination of more than four decades of the unchecked expansion of the powers of the American Presidency. Beginning with the Administration of President Franklin Roosevelt, we have stood by, helplessly if not happily, as each successive President usurped more and more of the legislative branch's constitutional prerogatives. Congress, by abdicating many of its responsibilities, was an accomplice in this usurpation.

Executive aggrandizement of power has resulted, quite frankly, in the corruption of the Constitution. The careful structural balance upon which the Constitution rests has been uprooted. And few, liberals or conservatives, have done much to prevent it.

The distortion of the Constitution has manifested itself in many areas besides the excesses of Watergate. Two of the more blatant examples are: the power of the purse and the war power. Congress is making progress regaining these powers. We are about to reform our Congressional budgetary processes and have enacted the War Powers Act, yet as I previously suggested we remain on a collision course with the Executive branch in regard to the doctrine of executive privilege.

Congressional acquiescence, its inability to effectively check the power of the White House had led not so much to the oft talked about arrogance of power, but the power of arrogance. Time and again this arrogance has shown itself in the White House's relationship with Congress, with the Judiciary, and with the press.

For too long those in the White House neither feared nor expected a check upon their arbitrary use of power. This aura of impunity no doubt spurred the as yet unknown architects of the Watergate break-in. Sadly, this disdain for Constitutional restraints remains even in the wake of Watergate.

If our liberties are to be preserved, if future Watergates are to be prevented, we must search for the means to restore the constitutional balance among the three branches of government. "Separation of powers" must once again become stern reality rather than a hollow ringing phrase.

And such a constitutional balance, precluding arbitrary actions by any one branch of the government will mean a government more conservative procedurally.

Shared and balanced powers and responsibilities are apt to be more slowly applied and upheld. A true balance of power compels increased consultation and compromise. Thus, it entails a less hasty more deliberative governmental pace.

To be sure we often chafe at the sometimes plodding Congress, preferring at times the rapid-fire action which we identify as efficiency, characteristic of the White House. But the framers of the Constitution did not intend for us to remove the keystone of our governmental system—the concept of checks and balances—solely for the sake of efficiency.

To them checks and balances were permanent essentials not temporary expedients. And we must understand that as we seek to reapply these constraints to a President, we thus constrain future presidents. And these Constitutional checks must always be neutral in their application. A popular President or a compelling cause must not at some future time be allowed to vitiate our Constitutional safeguards. The lessons of Watergate must be a lasting reaffirmation of the inherent limits and necessary balances of government and above all the inviolable rights of the governed.

This time-tested philosophy applied once again, will insure that ours is a government carefully and constitutionally defined and limited adherence to this philosophy should prevent future Watergates and restore and renew our Constitutional democracy. I know of no more urgent task. I know of no more noble goal.

OMINOUS CHANGES IN THE WORLD'S WEATHER

Mr. HUMPHREY. Mr. President, recently I read an outstanding article by Tom Alexander entitled "Ominous Changes in the World's Weather." In citing the research of Reid Bryson, meteorologist and director of environmental studies at the University of Wisconsin, Mr. Alexander states that "the world's climate is reverting rapidly to its less beneficient norm." A warming trend, which began in 1890, peaked in 1945—and ever since temperatures have been dropping sharply. The most prominent effect of the falling temperatures is to alter the integrated system of winds which sweep around the planet. This in turn has the potential for human disasters of unprecedented magnitude. For example, this new wind pattern has blocked vital monsoon rains from large sections of Africa, Asia, and Central America.

Bryson has predicted the climatic situation will get worse. It could affect "the whole human occupation of the Earth—like a billion people starving." The period from about 1890 to 1945 was merely a short respite from the "little ice age." We are now headed slowly into another major ice age. Global mean temperatures have been as high as they are now for only about 5 percent of the time for the past 700,000 years.

Man's activities have played a significant role in the cooling effect. Dust, both manmade and natural, suspended in the atmosphere produces the fall in temperature because it circumvents the warming effect of sunlight and carbon dioxide. Bryson contends that smoke from slash and burn land clearing, and windblown dust from mechanized agriculture are dangerous human contributions to the air pollution responsible for the global cooling trend.

Mr. President, Dr. Bryson testified this fall during hearings held before my Foreign Agricultural Policy Subcommittee on the "World Food Situation." I believe that his conclusions are important and must be seriously analyzed by all of those who are involved in domestic and world food policy.

I ask unanimous consent that Mr. Alexander's excellent article from the February 1974 issue of Fortune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OMINOUS CHANGES IN THE WORLD'S WEATHER

(By Tom Alexander)

For several years now, odd and unpleasant things have been happening to weather around the world. The droughts south of the Sahara, where unknown thousands of persons have died of famine and its associated diseases and millions more have been kept alive only by emergency food shipments, have been well publicized. It is not so well known that the African drought belt is part of a much larger dry-weather pattern extending all the way through the Middle East to India, South Asia, and North China. Drought has struck Central America as well. While these regions were drying up, places as widely scattered as the midwestern U.S., the Philippines, and Italy were submerged in some of their severest floods in centuries. And while low-temperature records were being broken in some northern regions, Siberia for example, others such as European Russia and the northeastern U.S. were enjoying unprecedentedly warm winters.

Not too long ago, if anyone asked whether something was going wrong with the climate, weather scientists answered with a slightly superior, "No." The eminent British meteorologist Hubert Lamb, who heads Europe's only climatic research organization, at the University of East Anglia, says it has always been assumed that climatic change of any significance was something that belonged to the geological past. "It was denied that there was anything other than random fluctuations from year to year or from one little group of years to another." Climatology, the study of long-term weather conditions, was regarded, says Lamb, as "the dullest branch of meteorology."

ARMADILLOS IN RETREAT

In the last decade, however, a number of scientists from several disciplines have concluded that some fairly drastic climate change *is* going on. Their message is that for nearly half of the current century mankind was apparently blessed with the most benign climate of any period in at least a thousand years. During this kindly era the human population more than doubled. But now there's good reason to believe that the world's climate is reverting rapidly to its less beneficent norm.

The changes, which are charted on the facing page, began with a pronounced warming trend after about 1890. Mean temperatures peaked in 1945 and have been dropping sharply ever since. The total drop since the Forties—about 2.7° F.—hardly seems dramatic, but the effects have been substantial. Icelandic fishing fleets that learned to range northward during the warm period have now had to return to traditional waters to the south. For the first time in this century, ships making for Iceland's ports have found navigation impeded by drifting ice. Since the late Fifties, Iceland's per-acre yield of hay has dropped 25 percent.

In North America the armadillo extended its range as far north as Nebraska during the warming trend, and now is beating a retreat southward again. In England, the average growing season is two weeks shorter than it was prior to 1950. As Lamb puts it, "Global temperatures since 1945 constitute, we believe, the longest unbroken trend downward in hundreds of years.."

GRANDPA WASN'T KIDDING

A fair rule of thumb is that *any* climate change is bad; not only armadillos but man and his institutions are adjusted to precisely the weather that prevails. As for the present cooling trend, a number of leading climatologists have concluded that it is very bad news indeed. They say that it is the root cause of a lot of that unpleasant weather around the world and they warn that it carries the potential for human disasters of unprecedented magnitude. The most telling effect of the falling temperatures is to alter the vast, integrated system of winds that sweep about the planet. And the most grievous result of the new wind pattern has been the blocking of vital monsoon rains upon which large sections of Africa, Asia, and Central America depend. Elsewhere in the world there seems to be a return to the more extreme and variable weather conditions—including floods, droughts, and great winter blizzards—that were typical of the nineteenth century. "When Grandpa said the weather was different in his day, he wasn't kidding," remarks one climatologist.

Long-range climate forecasting is still pretty much beyond the grip of science, but in recent months highly respected climatologists have been risking their reputations to predict that things will get worse. Japan's Meteorological Agency has warned its government to expect long-term increasing coldness in the north and drought in western Japan.

In the U.S., the most outspoken perceiver of climatological danger signals is Reid Bryson, director of the Institute for Environmental Studies at the University of Wisconsin. "There is very important climatic change going on right now," he says. "And it's not merely something of academic interest. It is something that, if it continues, will affect the whole human occupation of the earth—like a billion people starving.

The effects are already showing up in rather drastic ways."

"THE MOST ABNORMAL PERIOD"

Bryson drawns upon a broad variety of research performed by himself and others, but his conclusions are molded by his own unusual combination of interests. Originally, he wanted to become an archaeologist. During World War II, however, he was trained in meteorology by the Army Air Corps and became persuaded that this field might provide a unique perspective into the study of man. After the war, he received the thirtieth Ph.D. degree in meteorology ever handed out in the U.S. and went on to found the meteorology department at the University of Wisconsin, now the largest in the country. He has spent much of his scientific career in remote parts of the world gathering hints as to what past climates were like and what might have caused them to change. At the same time, his archaeological interest has kept him unusually conscious of the effects of climate upon man—and vice versa.

From this long-range perspective, Bryson finds it wildly inappropriate that it is the modern era, with its beneficent climate, that meteorologists, by international agreement, define as normal. "It's perfectly obvious," Bryson says, "that this has been the most abnormal period in at least a thousand years." He points, for example, to the fact that from 1918 to 1960 India experienced far fewer droughts than would have been expected from the prior record. The comparable absence of famine in this period, he contends, has played a large role, along with improved medical care, in causing the population of such regions as India to more than double in this century.

Bryson believes that the period from about 1890 to 1945 amounted merely to a brief respite from the "little ice age" that has held the world in its grip ever since the sixteenth century.

THE WHITENING OF GREENLAND

Before the little ice age, grapes were widely cultivated in England, and the French complained of English wine makers dumping their wares in European markets. As early as the tenth century, the Vikings had established prosperous colonies in Greenland, having named the island for its verdant pastures. By the early fifteenth century, however, these colonies were wiped out by cold and hunger and now four-fifths of Greenland lies buried under hundreds of feet of ice cap.

From the evidence found in such things as sea-floor sediments, peat bogs, and tree rings, the earth's long-term climatological history has been as full of rallies and plunges as the stock market. Even the little ice age is really only a minor squiggle in much longer-term oscillations between warm periods and true ice ages. In terms of these cycles, there's fair agreement among researchers that the earth is now heading very slowly into another major ice age such as the one that brought the glaciers deep into North America before it retreated some 10,000 years ago.

One of climatology's more surprising recent conclusions, derived from investigations of sea-floor sediments, is that for at least the past 700,000 years, global mean temperatures have been as high as they are now only about 5 percent of the time. Says Cesare Emiliani, who has been plotting the long-term cycles at the University of Miami, "We used to think intervals as warm as the present lasted 100,000 years or so. Instead, they appear to be short, infrequent episodes." Another surprising finding is that sometimes transitions from one major temperature regime to another have taken place with astounding rapidity, often within a century or so.

What makes the temperature fluctuate at all is a matter of intense debate. Many believe that the long-term cycles have astronomical causes. The earth has a slightly elliptical orbit that brings it closer to the sun at certain times of the year than at others. In addition, the axis upon which the earth spins is tilted. Finally, the earth wobbles slightly upon this axis, like a top. The combination of all these circumstances can, for example, lead to a series of very cool summers during which an unusual proportion of each winter's snow fails to melt in the northern latitudes.

It is known that the world's climate is a delicately balanced system, full of sensitive feedback mechanisms that serve either to amplify or to counter changes that occur. It is also known that the climate depends primarily upon the amount of solar radiation that gets absorbed by the earth and atmosphere. This is determined by the planet's overall "albedo," the measure of its reflectivity. The greater the albedo, the colder the earth. Since white things are highly reflective, clouds are major contributors to the albedo, as are snow and ice.

VOLCANOES THAT DIMMED THE SUN

Clouds can serve to moderate whatever climate trend is under way: if the earth's surface temperature climbs for whatever reason, more water evaporates and may rise to form more cloud cover. This increases the albedo and lowers the rate of heating. Ice and snow, on the other hand, provide positive feedback: if the average year-round temperature decreases, the extent of ice and snow coverage increases and reflects more of the incoming sunlight back to space. The result is to lower the rate of heating still more, particularly in the regions closest to the poles.

There's yet another contributor to the planet's albedo—airborne particles, particularly the extremely fine dust particles that have been carried too high in the atmosphere to be washed out by the precipitation. Many of these particles remain aloft for months or years. It's Reid Bryson's thesis that dust of various kinds initiates short-term cooling trends with characteristic time spans of decades or centuries.

Past cool epochs, he believes, were triggered by increases in volcanic eruptions, which spewed huge quantities of dust into the stratosphere. Historical writings are full of accounts of the dimming of sunlight and the brilliant sunsets that prevailed throughout the world for several years after major eruptions. Scientists who have drilled through many layers of the Greenland and Antarctic ice sheets report evidence of lower temperatures in the same layers in which a lot of volcanic dust is deposited. And most climatologists agree that a diminution of the sunlight as small as 1 percent would suffice to initiate a cool period and perhaps even major glaciation.

During the early parts of the century, when the climate began warming, volcanoes were unusually quiescent. They've been acting up again since 1955, and monitoring stations in places as scattered as the Caucasus Mountains, Mongolia, and Greenland have recorded measurable increases in dust fall, as well as decreases in the transparency of the atmosphere, and in the amount of direct sunlight reaching the earth.

THE HUMAN IMPACT

Bryson calculates, however, that neither volcanic activity nor the lack of it seems sufficient to account for the temperature ups and downs of this century. He is convinced that man's activities have been playing an increasingly significant part.

In agreement with other climatologists, he believes that a substantial increase in carbon dioxide from the burning of fossil fuels contributed to the earlier warming trend, through what's called the "greenhouse effect." Carbon dioxide happens to be quite transparent to light of short, visible wavelengths, which include most of the energy we receive from the sun. After this light penetrates the atmosphere, however, it is converted into heat by the earth and reradiated at the longer infrared wavelengths. Carbon dioxide molecules are not very transparent to infrared wavelengths, so this energy is trapped and reinforces the solar heating effect.

Bryson contends that sometime after 1930, the cooling effect of more dust in the atmosphere began to overpower the warming effect of carbon dioxide. Part of the dust blanket, no doubt, is due to industrial pollution. But Bryson suspects that windblown dust from mechanized agricultural operations and overgrazed arid land, plus smoke from the primitive slash-and-burn land-clearing methods widely practiced in the tropics, may have contributed even more. While all the man-made particles together are probably still outweighed by contributions from nature—volcanic dust, salt particles from evaporated ocean spray, and organic compounds emitted by vegetation—the human contribution is the only part over which man has any control.

Whatever its source, dust has a more pronounced cooling effect on the polar regions than on the tropics. For one thing, sunlight reaching the poles must travel obliquely through the dust layers, and therefore more of it is reflected. Also, there seems to be much less dust over the equator than in middle and higher latitudes.

NATURE'S EFFORT TO EQUALIZE

What makes this variation important is that large-scale circulation of the atmosphere is largely induced by the temperature difference between the equator and the poles. The wind system can be viewed as nature's effort to equalize temperatures around the globe.

One mechanism is the heating and ensuing rise of warm, moist air from the equatorial oceans. In rising, the air sheds much of its moisture on equatorial rainy belts and then, like air above a radiator that spreads along the ceiling to the cooler walls, it travels toward either pole. It reaches only about a third of the way to the poles before it descends again to create the high-pressure belts where most of the world's major deserts are found.

Some of the descended air circulates back toward the equator in the form of the trade winds, while the rest continues on toward the poles. As it does so, it still carries with it much of the speed induced by the earth's east-to-west spin. At the equator, this amounts to about 1,100 mph, while precisely at the poles, of course, the rotational speed is zero. So as the air moves poleward, it blows more and more strongly from the west—the prevailing westerlies at lower altitudes and the jet streams on high.

Eventually the poleward-trending air runs into a barrier of sorts in the form of great caps of heavy, cold air extending outward from either pole. Together the westerly winds and the polar air mass make up what meteorologists call the "circumpolar vortex." It resembles a great skirt whirling around the poles. The lower hem of this skirt is full of waves and turbulence, particularly in the Northern Hemisphere, where there are numerous mountain ranges to perturb the flow of the wind.

Waves along the boundary come in several sizes. The very largest—of which there are normally only from two to six stretching end to end around the earth's temperate zones—tend to remain semistationary. Their location is determined partly by terrain and partly by temperature differences between various parts of the earth's surface.

RAIN ON THE PLAINS

The vagaries of the circumpolar vortex account for most of the weather patterns in the temperate zones. The westerly winds, follow-

ing the wavy profile, serve to bring warm southern air to northern regions or cold northern air southward. The greater the temperature contrast between the equator and the poles, the deeper and more numerous are the waves in the vortex, as though nature were trying harder to equalize the temperatures.

Long-range meteorologist Jerome Namias of the Scripps Institution of Oceanography says that the peculiarly cold winters in the western U.S. and the warmish winters in the East over the last few years are due to a southward projection of one of these waves, which has now situated itself over the central U.S. Cold air flows down its western boundary, and the return flow warms the East.

Such large waves also establish which places get rain and which don't. Several of Bryson's colleagues at Wisconsin, who detect emerging patterns like those that prevailed during the nineteenth century, predict that one consequence will be a return of heavier rainfall in the western plains and Rocky Mountain states. Many of the forty-niners who made the trek to California recounted that a hazard of crossing the plains was losing sight of the main party amid endless seas of head-high grass—growing in regions that are practically desert today. Climate, Bryson speculates, may have played a greater part than hunters in the disappearance of the huge herds of bison.

SNOW IN AUGUST

But the new weather patterns seem likely to do more harm than good, even in North America. Excessive rain on the plains can contribute to flooding as far away as the Mississippi Valley, where rivers got far out of their banks last spring. In Canada last year, a storm in the middle of August dropped eight inches of snow on the western wheat fields. This is reminiscent of midsummer snows that occasionally devastated New England agriculture early in the nineteenth century.

The grain belt in the U.S. Midwest would probably be less affected, but, even so, production might not measure up to past levels. James McQuigg, a government climatologist at the University of Missouri who specializes in the economic implications of weather, has for some years been analyzing the year-by-year yields of various American crops during the past century and relating these to each year's weather. While conventional wisdom has it that the phenomenal yields of the last fifteen years or so are attributable to improved technology and crop strains, McQuigg concludes that at least as much credit should be given to extremely favorable temperatures and rainfall. "The probability of getting another fifteen consecutive years that good is about one in 10,000," says McQuigg, who also happens to subscribe to Bryson's theories about a deteriorating climate.

Elsewhere in the world, the effects of changes in the circumpolar vortex could be massively tragic. Last year, British meteorologist Derek Winstanley analyzed the persistent droughts in Central Africa, the Middle East, and India. Winstanley concluded that instead of withdrawing northward as the Northern Hemisphere warms up each summer, the lower hem of the vortex has stayed unusually far south. In turn, the great desert-forming belts of descending air have been pushed farther south into heavily populated regions. The outward rush of air from these high-pressure zones has prevented the moisture-laden summer monsoon winds from penetrating into grazing lands that are dry the rest of the year. So the blocked monsoons ended up dropping their precious rainfall into the oceans or into regions that already have too much rain anyway.

IF DESERTS MOVE SOUTH

Winstanley also noted that some areas to the north, on the Mediterranean coast, had been getting unusually heavy rainfall, while farther north still, in the British Isles, for example, rains had been generally scanty in recent years. He concluded that all these weather peculiarities derived from the same general circumstances: namely, the expanding size and the increasing waviness of the circumpolar vortex. If these weather patterns persist, they will shift entire deserts such as the Sahara southward, and all mankind's efforts to halt such climatological encroachment by, for example, planting windbreaks, or irrigation, will be futile.

By now, many experts agree that the circumpolar vortex is behaving in the peculiar way Winstanley describes. Reid Bryson ties this behavior mostly to the global cooling trend and the widening temperature gap between the poles and the equator. In effect, the circumpolar vortex is acting a little as though it were winter all year round, refusing to contract poleward and smooth itself out.

Even though man's increasing production of carbon dioxide has helped to moderate the cooling trend and should continue to do so, Bryson contends that the greenhouse effect may actually be contributing to the troubles in the monsoon belt. Carbon dioxide in the atmosphere warms the earth's surface more than it does the upper air. The effect of a greater ground-to-air temperature differential is to increase the force of the upward movement of air at the equator and therefore the downward rush of air over the deserts.

Some climatologists remain unconvinced by Bryson's theories about the cause of the present cooling trend and the likelihood of its persistence. One of the most prominent of them is J. Murray Mitchell Jr., of the National Oceanic and Atmospheric Administration, who says, "I'm an agnostic. We observe these trends in the Northern Hemisphere, and we've seen they're real. But we can't find the central tendency of the trends or know how long they will last." Mitchell emphasizes that it's impossible to predict volcanic activity, and that climatic change appears to be a random matter. He suspects, though, that the present cooling trend will reverse itself for natural reasons, aided, perhaps by the greenhouse effect. This would ease the blockage of the monsoons.

Other doubters include astronomer Walter Orr Roberts and M.I.T. meteorologist Hurd Willett, who suspect that climatic change is influenced by variations in the sun itself. They are among a number of meteorologists who have long puzzled over an apparent—though disputed—relationship between weather patterns and the eleven-year sunspot cycle. So far, though, no one has much in the way of an acceptable theory as to just how sunspots, which seem to cause only very small changes in solar energy, could exert any observable effect upon the climate.

BAD ODDS FOR OPTIMISTS

Others emphasize that climatological theory as a whole is still far too primitive to predict what the future holds. One of these is Stephen Schneider, who is attempting to construct a mathematical model of climatological change at the National Center for Atmospheric Research in Boulder, Colorado. Schneider believes that there's just as much in the way of physical evidence favoring a future warming trend as there is for continued cooling. Nevertheless, Schneider acknowledges that past experience can at least help to educate guesses about what the future holds: "If you were a gambler looking over the record and saw a temperature peak such as the one we've just been through, you wouldn't gamble that we're going to go back to that again. So Bryson has got his fingers on what is potentially a very serious problem."

A surprising number of respected figures in the field are willing to go along with Bryson's grim scenario—or at least regard it as a plausible outcome, based on present knowledge. Britain's Hubert Lamb, together with colleagues, is completing a study of last year's drought conditions in Africa, Trinidad, and the northern part of South America. Like Bryson and Winstanley, Lamb's group is coming to conclude that the droughts are associated with the cooling trend and particularly with the cooling of the Arctic. "Bryson and I have got an almost identical view of this," says Lamb, "but one must remember that there are quite important fluctuations in a rather short time scale going on all the time, superimposed on this long-term trend, so to speak. Probably 1973 was a particularly bad year."

BANKING FOOD FOR EMERGENCIES

A fervent convert to Bryson's position is Kenneth Hare, of the University of Toronto, former president of Britain's Royal Meteorological Society, and now director general of research on the environment for the Canadian government. "Bryson is the most important figure in climatology today," Hare declares. "I'm naturally a lot more conservative than he is, but I take what he says very seriously indeed." Hare is interested in persuading governments to establish food banks to meet the climatic emergencies that he thinks may come to pass. "I don't believe the world's present population is sustainable if there were more than three years like 1972 in a row," he says.

No one has much idea as to how long the new climatic regime will last or how far it will proceed. At best, though, there's considerable inertia in the climate-generating system in the form of vast depths of ocean water that, once cooled, would take decades, at least, to warm back up again. Lamb's investigations reveal that past cool periods usually lasted for about a century, the minimum being about forty years.

Bryson believes that monsoons will probably not return regularly to regions such as northern India during the remainder of this century. If he is correct, there would seem to be scant prospect that even the present populations of the monsoon belts can be maintained, even if all the arable land in the rest of the world were placed in full production for this purpose.

WHY EMPIRES FELL

Recently, some archaeologists and historians have been revising old theories about the fall of numerous elaborate and powerful civilizations of the past, such as the Indus, the Hittite, the Mycenaean, and the Mali empire in Africa. There is considerable evidence that they may have been undone not by barbarian invaders but by climatic change. Bryn Mawr archaeologist Rhys Carpenter has tied several of these declines to specific global cool periods, major and minor, that affected the global atmospheric circulation and brought wave upon wave of drought to formerly rich agricultural lands.

Refugees from those collapsing civilizations were often able to migrate to better lands. And Bryson speculates that a new rainfall pattern might actually revive agriculture in some once-flourishing regions such as the northern Sahara and the Iranian plateau where Darius's armies fed. But this will be of little comfort to people afflicted by the southward encroachment of the Sahara. The world is too densely inhabited and politically divided now to accommodate mass migrations.

McQuigg at Missouri and several researchers in a food-climate research project under way at Wisconsin's Institute for Environmental Studies are also concerned about the impact of climate change upon the highly specialized crop strains developed in the vaunted green revolution. They suspect that the price that has been paid for the high productivity may be lack of adaptability. The grains have been optimized for the narrow spectrum of temperature and rainfall that has prevailed in recent decades. There's reason to assume, say these researchers, that

even though the older strains yield less under optimum conditions, they are more tolerant and likely to yield more under the multiple stresses of climatic change.

Climatologists worry, too, that powerful nations may try to overrule nature through ill-considered engineering projects. In the U.S.S.R., for example, a third of the grain crop comes from the drought-prone virgin lands of Siberia, and there has been talk of diverting some of the great Siberian rivers into vast irrigation projects. These rivers empty into the Arctic Ocean, where the light, fresh water spreads out atop the salt water and permits the arctic seas to freeze over. According to some experiments by a Russian scientist, O. A. Drozdov, and by British meteorologist R. L. Newson, who constructed a mathematical model of winds in the Northern Hemisphere, the paradoxical consequence of preventing the freezing of the Arctic Ocean is likely to be that winters would become colder and drier over many continental areas in middle latitudes. Even some prominent Soviet meteorologists have spoken out against the proposal. But if disastrous, prolonged droughts were to overtake the Siberian wheatlands, Soviet authorities might conclude that there is little to lose in going ahead with the projects.

PLENTY OF MARGIN FOR ERROR

From the anthill perspective of a human lifetime, it is easy to perceive the sand-grain texture of weather but hard to comprehend the rolling topography of climate. Perhaps the most crucial insight to be gained from what the climatologists are learning is not some exact forecast of future climate, but rather that climate is, for calculational purposes, not a constant factor. Rather, it appears to be a wildly fluctuating variable—and a more important problem than others that we know a lot more about. In writing the equations for mankind's survival, we'd better allow plenty of margin for error.

WHO PAYS THE COST OF SOCIAL SECURITY BENEFITS?

Mr. HARTKE. Mr. President, throughout my 15 years in the U.S. Senate, I have consistently fought for increased social security benefits for the retired and disabled of this Nation. These people deserve to live in dignity, and the only way we can assure that is to provide adequate social security benefits.

At the same time, I have pointed out for the past 3 years that we cannot continue to raise benefits without finding new methods of financing those benefits. Lower and middle income workers are being saddled with an ever-increasing tax burden to pay for the benefits of workers already retired. That burden will increase during the coming years as the proportion of older people in our population rises dramatically.

I have proposed that we use general revenues to finance a modest portion of the retirement and health insurance benefits under social security, and that we lower the payroll tax for low-income workers. The essence of my proposals is contained in S. 1838, introduced during the first session of this Congress.

Mr. President, I ask unanimous consent that an article from the January 1 issue of the Washington Post describing the impact which new social security benefits will have on workers' incomes be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY'S HIGHER DEDUCTIONS CUT INCOMES TODAY

Higher Social Security taxes beginning today will reduce wages and salary income of millions of Americans, while inflation will erode the buying power of what is left.

In fact, a single worker who earned $12,900 in 1973 and gets a 5.5 per cent pay increase probably will lose $1,659.25 in buying power this year.

Under the new Social Security law, workers pay an additional $105.30 to benefit an estimated 30 million senior citizens, widows and children. The tax would grow an additional $35.10, if President Nixon signs a bill on his desk to provide 11 per cent increases to Social Security beneficiaries.

The tax bill for Social Security is negligible, howevery, when compared with inflation, which is expected to be the primary eroder of buying power if it continues at 8 per cent in 1974 (a lesser rate than the 8.4 per cent through Nov. 30, 1973).

For instance, a couple with two children and 1973 income of $12,900 gets a 5.5 per cent pay boost in 1974. Income after taxes would be $11,357.92 compared with $10,907.20 in 1973. When the 8 per cent inflation factor is added to net income, the couple's buying power is $10,449.28 or $457.92 less than 1973.

The same couple with a 5.5 per cent pay raise from $17,900 to $18,885 would have net income of $15,666.90 in 1974. With the inflation factor, the buying power of $14,413.54 is $616.66 less than the 1973 spendable income of $15,030.20.

An unmarried working man or woman who takes care of a parent or one child would have $11,021.90 in after-tax income with a 5.5 per cent pay increase from 1973 base pay of $12,900. With the inflation factor, take-home pay will buy $441.06 less than the net income of $10,581.20 in 1973.

The same head of a household earning $18,885 after a 5.5 per cent pay increase would have net income of $15,468.95—with buying power $621.77 less than the $14,853.20 of 1973.

A single worker with the same gross earnings would have $14,941.25 in net pay this year with buying power $631.25 less than the $14,337.20 net pay of 1973.

But the hardest burden falls on the single worker who earned $12,900 last year and gets a 5.5 per cent pay increase in 1974.

The Social Security and graduated income taxes will erode the worker's net pay from $10,698.20 to $10,595.60 (the only category in this sample for which net pay is actually less despite a pay boost).

THE FOOD STAMP PROGRAM

Mr. STEVENSON. Mr. President, since its enactment in 1964, the food stamp program has been a most valuable tool in the effort to eradicate hunger and malnutrition. At first, this program was available only in the 50 States. Then, in 1971, Congress amended the act so as to permit Puerto Rico, Guam, and the Virgin Islands to participate. In 1973, Congress made such participation mandatory by June 30, 1974. The Department of Agriculture has now delayed implementation in many parts of the island until later in 1974 and in San Juan until March 1975. This violates Congress mandate. Moreover, the Department of Agriculture has, in apparent violation of the law, promulgated coupon allotment schedules for Puerto Rico which severely limit the benefits of participation.

The size of each eligible household determines the amount of its coupon allotment. Coupon allotments are uniformly set by the Secretary, with the specific instruction that they "reflect the cost of obtaining a nutritionally adequate diet" in the 50 States and the territory involved. This means one thing: a comparison of coupon allotments between a territory and the 50 States is wholly dependent upon a comparison of food prices. Even though allotments in Puerto Rico, Guam, and the Virgin Islands cannot be set at higher levels than the ones used in the 50 States, the benefit levels must be the same as those used in the States if the cost of food is equal to, or higher than, the cost of food in the States. But, the Secretary has failed to follow the law. He has provided only $122 monthly to a four-person family in Puerto Rico while mainland families receive $142 monthly even though food prices are higher than in mainland United States. Poor people throughout the Island, therefore, will be unable to obtain a nutritionally adequate diet.

Finally, the Secretary has issued income guidelines which will exclude many needy families that Congress intended to be included in the program. He did this by ignoring the statutory formula that requires income eligibility to be determined for each family by multiplying the Island's average per capita income by the number of persons in each family.

Discrimination against classes of citizens is an evil, no matter when or where it falls. To see such discrimination inflicted on American citizens by the Department required by Congress to assist them is most disheartening. It is my hope that the Secretary of Agriculture will amend these discriminatory schedules and issue in their place those mandated by law.

JUDGE PHILIP NEVILLE—A GREAT MAN, A GREAT JURIST

Mr. HUMPHREY. Mr. President, last month America lost a great man, Minnesota a great jurist, a family a loving husband and father, and I a close personal friend. On February 13, Federal district judge Philip Neville of Minnesota lost his struggle with leukemia—a struggle which he fought courageously and without complaint.

I could speak at length of the superb qualities that Phil Neville displayed through a legal career that spanned more than 40 years. But I would prefer to point out a few instances of that career which by themselves can far better explain Phil Neville, the man and jurist.

For 5 years early in his career, Judge Neville taught at the Minneapolis College of Law. To him, teaching was more than mere instructing. It was a means of helping develop students to recognize not only their potential but more importantly their responsibility and obligation to others.

Judge Neville spent the rest of his life teaching, although his classroom expanded from that small room at the law school to a courtroom that spanned a U.S. judicial district, the State of Minnesota. As a result of his professorial outlook, it surprised few when upon appointment to the bench to be U.S. district judge in 1967, Judge Neville said:

Court decisions are important in everyday life, whether people realize it or not.

Judge Neville was a humane man who recognized fully and was sensitive to the needs of other human beings. Thus, it was this great man who while president of the Minnesota bar in 1963 encouraged that organization to support a public defender system for the indigent before any law was passed establishing that system. While U.S. district judge, it was Phil Neville who ordered that Minnesota prisoners be provided the constitutional due process guarantees afforded other citizens.

Judge Neville had a private side to his life and it was here that I knew Phil best. Phil always was a most gracious man, a very kind, decent and warm human being. To Phil Neville, his family meant the world. His deep love and devotion for his wife, Maurene, and his two sons and daughter were obvious.

Phil's private life included a sincere interest in his religion and concern for his church. Religion to Judge Neville was more than merely being a loyal supporter and member of the congregation at St. Stephen's Episcopal Church. It meant giving generously and unselfishly of himself not only in the Episcopal diocese of Minnesota but also serving at his own expense as a board member for an Episcopal school in Minnesota.

Mr. President, I miss Phil Neville. I miss that warm kind, and sensitive person who shared with me many personal moments of happiness and tragedy—and who allowed me to share those same moments with him. But I will always remember, as I know his family and friends and many Minnesotans will remember, the lesson that Judge Neville taught us—to live courageously and with love.

NATIONAL STANDARDS FOR WORKMEN'S COMPENSATION

Mr. CRANSTON. Mr. President, California workers can be proud of one of the best State "workmen's comp" programs in the country.

California meets most of the 16 criteria established for good programs by the U.S. Department of Labor. But some States meet only one; others just two or three. Employers in States with poor workmen's comp programs have a competitive advantage over employers in other States who have to contribute more to their better programs. This difference in treatment is unfair to the workers, too.

A farmworker injured in a California field can apply to the State for workmen's compensation; but a farmworker hurt in Texas is out of luck.

An illness caused by working conditions may be compensated in Connecticut, but the same illness in Alabama would not be covered.

Is that fair? Of course not.

To correct this inequity, Senator JACOB JAVITS of New York and Senator HARRISON WILLIAMS of New Jersey have introduced a bill, (S. 2008), which I strongly support, that would set national standards for workmen's compensation.

At Senate Labor Committee hearings in San Francisco last month, many disabled workers described seemingly endless battles to stave off poverty while battling company doctors, insurance adjustors and lawyers to obtain what is rightfully theirs. Spokesmen for organized labor urged early adoption of national compensation standards.

Passage of S. 2008 in the very near future is clearly in our Nation's interest.

RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

Mr. BAYH. Mr. President, one of the questions which has aroused considerable interest in recent months with respect to the ratification of the proposed 27th amendment to the Constitution has been whether a State once it has ratified the amendment may later change its mind and rescind its ratification. The issue was first raised by the State of Nebraska which has now rescinded its earlier ratification. Several other States, in addition, have similar rescission resolutions pending before their State legislatures.

I am firmly convinced that, once a State legislature has exercised the powers given it by article V of the Constitution and ratified an amendment proposed to it by the Congress, it has exhausted its powers in this regard and may not later go back and change its mind. Recently the Indiana Law Journal published an article on this question by Ms. Lynn A. Fishel. After thoroughly researching the congressional and legal precedents, Ms. Fishel concludes that, under both a statutory and constitutional interpretation of the issues involved, attempted rescissions of earlier ratifications are not effective. I ask unanimous consent that the text of Ms. Fishel's articles be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REVERSALS IN THE FEDERAL CONSTITUTIONAL AMENDMENT PROCESS: EFFICACY OF STATE RATIFICATIONS OF THE EQUAL RIGHTS AMENDMENT

With the Equal Rights Amendment [1] nearing the number of ratifications required [2] for inclusion in the Constitution, both opponents and proponents are intensifying pressure on state legislatures to reverse either earlier ratification or rejection. One state has already passed a resolution rescinding ratification and others are known to be considering similar resolutions.[3] Such state action presents important questions concerning how the votes of rescinding states and states which ratify after votes of rejection will be counted at the close of the ratification period.

The conventional assumption is that once a state has ratified a proposed amendment to the Constitution, that act is irreversible. It is also believed that a state may reconsider its rejection of an amendment, and change its vote to the affirmative at any time within the ratification period set by Congress.[4] However, the validity of these assumptions has never been definitively determined by the Supreme Court. Although the Court addressed reversal issues in the leading case of *Coleman* v. *Miller*,[5] the ambiguous language of that decision left the legal status of these assumptions still in doubt.[6] Therefore, the effectiveness of reversals by state legislatures of their earlier actions concerning the Equal Rights Amendment is uncertain.

There is a critical need for this uncertainty to be eliminated. Proponents and opponents of this amendment and future proposed amendments need reliable guides for their lobbying strategies. In addition, state legislatures which may consider revising prior resolutions on proposed constitutional amendments should be able to reliably predict the efficacy of such a course, so that they might avoid possibly futile actions. The rules by which any proposed amendment is to be ratified must be reliable and stable. Indeed, article V, which governs the amendment process, was designed to ensure such orderly change to the Constitution. It would be ironic if this article should itself be subject to uncertainty. This note examines the sources of the ambiguity in the law governing the ratification process and attempts to suggest avenues toward a much needed resolution.

SOURCES OF AMBIGUITY

Article V

Article V of the Constitution states in pertinent part:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution . . . which . . . shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress. . . ." [7]

Determining the efficacy of a ratification which has been passed after a vote of rejection, or the efficacy of a ratification which a state is purporting to rescind, requires interpretation of the words "when ratified" in article V. Three interpretations have been suggested.[8] First, under the *Chandler v. Wise* theory, the initial action of the state legislature concerning a proposed amendment may be considered conclusive and binding on future legislatures, even if it is an act of rejection.[9] Second, according to the "Kansas view," an original vote of rejection may be regarded as not conclusive, although an original vote of ratification would be.[10] Third, under the "lottery theory," neither rejection nor ratification may be considered as final until three-fourths of the states have ratified and the amendment adopted.[11] Historically, the predominant position has been that of the "Kansas view." [12] However, because the Supreme Court declared portions of the ratification process to be political questions in *Coleman v. Miller* [13] and left the issue to Congress, the continued validity of this historical position is open to question.

Coleman v. Miller

Coleman involved a challenge to a ratification of the Child Labor Amendment.[14] The Kansas Supreme Court had upheld the state legislature's ratification which had been passed over a previous rejection.[15] The facts in *Coleman* presented the Supreme Court with the question of whether a state, having rejected an amendment, could later ratify it.[16] The Court stated:

"The question of the efficacy of ratifications by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question. . . ." [17]

However, the opinion is confusing and contradictory because it does not stop there.[18] The Court arguably speaks to the merits, citing the traditional congressional pattern of treating ratification, but not rejection, as binding on a state.[19] It is uncertain from the Court's language whether it was approving the congressional precedent on legal grounds or whether it was merely noting its acceptance by the political branches. Despite this ambiguity, commentators have generally assumed that *Coleman* is a political ques-

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tion holding [20] and that it therefore provides no judicial precedent for the conventional understanding [21] of the meaning of "when ratified" in article V. Thus, whatever validity these assumptions may have is drawn from congressional precedent.

CONGRESSIONAL PRECEDENT

During the ratification process for the fourteenth, fifteenth and nineteenth amendments, states attempted to reserve both earlier ratifications and rejections. Yet, there was an almost complete lack of explicit discussion by Congress of its own precedent during the ratification process for these amendments. Both congressional action and inaction during these periods are consistent with the view that ratification, but not rejection, is binding. Further, congressional behavior is not consistent with the other two possible interpretations of the article V term "when ratified." [22]

During the adoption of the fourteenth amendment, Congress was involved in several steps of the ratification process.[23] However, the record yields only one discussion on the question of whether it is within the power of a state under the Constitution to reverse prior action concerning ratification. The occasion was receipt by the Senate of an Ohio resolution withdrawing that state's earlier approval of the fourteenth amendment.[24] Among the three senators who spoke, there was no consensus on the permissibility of reversals. The Ohio resolution was merely referred to the Committee on the Judiciary, in effect killing the resolution.[25]

With no direction from Congress, when it appeared that three-fourths of the states had ratified, the Secretary of State issued a proclamation, certifying:

"[I]f the resolutions of the legislatures of Ohio and New Jersey ratifying the . . . amendment are to be deemed as remaining of full force and effect, notwithstanding the subsequent resolutions of the legislatures of those States, which purport to withdraw the consent of said States . . . then the . . . amendment has been ratified . . . and so has become valid, to all intents and purposes, as part of the Constitution of the United States." [26]

The next day, without debate, both houses passed a concurrent resolution declaring that the fourteenth amendment should be promulgated. The resolution included in the list of ratifying states both those which had attempted to withdraw ratification (Ohio and New Jersey), as well as those which had ratified over prior rejection (North Carolina and South Carolina.[27] The Secretary of State then issued the definitive proclamation declaring the amendment adopted.[28]

During the ratification period for the fifteenth amendment, the debate was much livelier, due to the fact that the readmitted southern states were resuming their representation in Congress. Understandably, the discussions lacked unanimity. More telling was the final inaction of Congress. A joint resolution for congressional declaration of the ratification of the amendment was referred to, but never re-emerged from, the Committee on the Judiciary.[29] Therefore, there was no formal joint congressional action during this entire ratification period.

The Secretary of State, without congressional direction, proclaimed the amendment ratified.[30] He noted that while New York had sought to withdraw its ratification, Georgia had recently ratified. This brought the number of states to the required three-fourths, regardless of which way New York was counted. An attempt in the House to have the issue referred to a special committee failed [31] and, in the end, no action was taken by Congress to clarify the position of New York. No joint resolution was adopted mandating the Secretary to proclaim ratification as had been done for ratification of the fourteenth amendment.[32] Thus, the Secretary's proclamation stood notwithstanding the action by New York, which is now generally considered to be among those states which ratified the amendment.[33]

When the nineteenth amendment was ratified, it was simply promulgated by the Secretary of State, with no question directed to Congress, although both Tennessee which claimed to have rescinded ratification and West Virginia which had ratified over prior rejection were counted among the ratifying states.[34] It seems that the precedent for ignoring reversals was by then well set since no action of any kind was proposed or taken in Congress during this ratification period.

Congressional behavior during these three ratification periods has created precedent consistent only with the theory that ratification is binding, but rejection is not.[35] Had the Congress espoused the *Chandler v. Wise* position,[36] it would have been necessary to declare invalid the ratifications of those states which had first rejected the amendment. Had Congress espoused the lottery theory,[37] it would have been necessary to honor the attempted withdrawals of ratification.

The value of congressional precedent

Having established the substance of congressional precedent on ratification, it is necessary to examine its legal import in order to determine whether legislative precedent can resolve the dilemma for those who need to know the law governing the ratification process.

It is understood that no Congress can bind a future Congress. As Professor Black has put it:

"[Based] on the most familiar and fundamental principles, so obvious as rarely to be stated . . . no Congress has the power to bind the consciences of its successors, with respect to grave questions of constitutional law. . . ." [38]

Precedents are necessarily less binding than laws since, when change is sought there is no need for formal repeal. In addition, Congress, being elected to represent the people at a particular time, is not as burdened as is the judiciary with the necessity of making its actions appear consistent. However, Congress is apparently cognizant of its own precedents when it confronts issues raised only infrequently, and has accorded them a certain amount of respect in the past.[39]

Regard for congressional precedent permeates the response of the Counsel to the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee to an inquiry from the Nebraska State Senate concerning the permissibility of withdrawing ratification. The Opinion Letter opened:

"Briefly the judicial opinions and, more importantly, the precedents established by the Congress itself make it clear that once a state has ratified an amendment, it has exhausted the only power conferred on it by Article V of the Constitution, and may not, therefore, validly rescind such action." [40]

The language in *Coleman* was then quoted to the effect that Congress is the final arbitrator of the question of efficacy.[41] The Letter next reviewed congressional precedent. Emphasis was placed on the proclamation of the Secretary of State [42] during the ratification of the fourteenth amendment as clearly posing the issue to Congress of the validity of ratifications which were subsequently rescinded. The congressional response in that case, as well as its response to the same question during the ratification period of the fifteenth amendment, were cited as relevant precedent.[43] The Letter concludes with what is currently the most authoritative statement available on the question of efficacy of ratification.

"Congress . . . has expressed itself quite definitely on this question. It is my legal opinion as Counsel of the Subcommittee on Constitutional Amendments of the United States Senate that once a State has exercised its only power under Article V of the United States Constitution and ratified an Amendment thereto, it has exhausted such power, and that any attempt subsequently to rescind such ratification is null and void." [44]

However, since no Congress can bind a subsequent Congress, reversal of this precedent without prior notice is still a theoretical possibility, if not a practical probability. Judicial intervention may be necessary to prevent this occurrence and provide stability in the amendment process.

JUSTIFYING JUDICIAL INTERVENTION

At the end of the seven-year ratification period, the Congress which decides which states have effectively ratified the Equal Rights Amendment will not be the same one which proposed it. It can be argued that the proposing Congress acted under the dominant assumption that ratification, but not rejection is final. However, while this view of efficacy will not be legally binding on the Congress presented with the question of which state ratifications to honor, citizen lobbyists, state legislators and even members of Congress have relied on the continuing validity of this consistent legislative precedent.[45] A change in procedure by Congress during the ratification period would leave both opponents and proponents of the Equal Rights Amendment in confusion.[46] If such a change should come when the ratification period has ended, it could severely prejudice the legitimate expectations of whichever side ultimately loses.

The courts may well have a role to play in protecting the reliance interests of the citizenry and the states and ensuring that their efforts at orderly change are not disrupted by unexpected concerning the proper procedures for ratification. The courts can bring to this precedent the necessary finality to make it a reliable guide to present and future actions concerning constitutional amendment. The question arises, however, whether *Coleman v. Miller* [47] forecloses judicial intervention, or whether *Coleman* can be reinterpreted.

There is a constitutional interest in the stability that the courts could provide. The purpose of the Framers in including article V can only have been to provide for the orderly alteration of the Constitution to ensure its responsiveness to future generations. It is anomalous that a strictly construed political question doctrine might become the instrument for the disorder that would ensue from sudden congressional reversal of its own precedent. Such a use would violate the Supreme Court's articulated purpose for the application of the doctrine, that "a tool for maintenance of governmental order will not be so applied as to promote only disorder." [48]

Legal scholars have long recognized the need for finality in the amendment procedure. One commentator has urged that this goal be achieved solely through the courts:

[S]ince this is the sort of question which the Supreme Court has often decided, and since there are no insuperable obstacles to reaching an accurate decision, the Court should have taken jurisdiction [in *Coleman*] and settled . . . the question . . . and *that can only be done by the Court.*[49]

Another commentator also argued for stability, but believed *Coleman* mandated that:

"The rules must be made by Congress, unless . . . Congress . . . prefers to leave all questions open for decision if and whenever they may arise in connection with the ratification of any given amendment. But surely the law on such a basic matter as amending the Constitution ought to be known in advance; and the judicial branch has here passed full responsibility over to the legislative." [50]

While stability must be achieved, neither of the polar views of justiciability presented

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by these commentators will yield the most desirable solution.

The goal for the courts should be to find the middle ground which pays respect to the role of Congress, as sanctioned in *Coleman*, in formulating the rules of ratification, but which at the same time protects the interests of stability and reliance against the possibility of congressional change in the midst of the ratification process.

TOWARD A SPECIAL ARTICLE V DOCTRINE OF JUSTICIABILITY

Any new judicial approach to article V cases must cope with the holding of *Coleman* that ratification issues are political questions and thus reserved exclusively to Congress for decision.[51] A re-examination should be conducted in light of the modern contours of the political question doctrine which has been more clearly defined since *Coleman*. The current law is derived from *Baker v. Carr* [52] which enumerated the factors to be considered in determining the presence of a political question:

"It is apparent that several formulations which vary slightly according to the settings in which the questions arise may describe a political question, although each has one or more elements which identify it as essentially a function of the separation of powers. *Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it. . . .*" [53]

Textually Demonstrable Commitment

The language in article V [54] could conceivably give rise to an argument that the powers under it are textually committed to Congress. However, in light of recent redefinition of the term, it would appear difficult to argue that ratification is "textually committed." In *Powell* v. *McCormack* [55] the Court held that the statement in article I, section 5 of the Constitution, "Each House shall be Judge of the . . . Qualifications of its own Members," was not so complete a textual commitment that it prevented the Court from considering issues concerning the seating or expulsion of congressmen.[56] The Court indicated that even if it initially found a textual commitment it would go further and define the scope of the commitment:

"For, as we pointed out in *Baker* v. *Carr*, . . . '[d]eciding whether a matter has in any measure been committed by the Constitution to another branch of government . . . is itself a delicate exercise in constitutional interpretation, and is a responsibility of this Court as ultimate interpreter of the Constitution.' " [57]

To accomplish this the Court was willing to go behind the text to review and analyze the historical context in which the controlling phrase was adopted in order to determine the intent of the Framers.[58] The Court's approach in *Powell* made clear that the notion "textual commitment" is far from absolute.

In order to examine to what extent the ratification process has been textually committed to Congress, it is necessary to determine the meaning of the phrase "when ratified" by looking to the historical background of article V. During the drafting of the article the most controversial portion was the role Congress would play in proposing amendments.[59] In order to balance that role, the states were given particular prominence in the ratification process.[60]

In view of this concern, there would seem to be no reason to conclude that the Framers intended article V to be within the exclusive control of Congress. No historical reasons appears to exclude the Court from its traditional role of interpretating the Constitution. The Court should be able to determine if the states have followed the correct amending procedure, whether this requires an interpretation of article V or of congressional statute or precedent.

Judicially manageable standards

Just as a textual commitment would indicate the presence of a political question, so also would the finding that there is a lack of judicially manageable standards.[61] Although the Supreme Court encountered little difficulty in determining judicially manageable standards for constitutional interpretation in *Powell v. McCormack*,[62] it seems unlikely that the Court meant to foreclose all future inquiry in constitutional cases into whether judicially manageable standards are available. Should the Court seek a source of standards for article V cases, it would find two possibilities which would not require overruling *Coleman*: [63] (1) an article V doctrine which would evolve a special theory of limited justiciability confining the Court's role in ratification cases to assuring that congressional precedent is not altered in the midst of the amendment process; and (2) a statutory construction theory which would limit the Court's intervention to interpretation of the statute which implements article V.[64] Either of these sources would permit the courts to provide stability to the ratification process while at the same time giving Congress a determinative role in formulating the rules for ratification.[65]

(1) Article V Doctrine

The adoption of this doctrine, which would give the courts a limited role in interpreting article V, would require reinterpreting that portion of *Coleman* which dealt with ratification.[66] Instead of being a pure political question holding, the case may have evidenced the continuation of an implicit doctrine followed by the Court in article V cases. Although Chief Justice Hughes in his opinion for the Court stated that "the question of the efficacy of ratifications by state legislatures . . . should be regarded as a political question," [67] he reviewed congressional action during the ratification of the thirteenth, fourteenth and fifteenth amendments and then, arguably, came to an actual decision on the merits.

"Thus the political departments of the Government dealt with the effect both of previous rejection and of attempted withdrawal and determined that both were ineffectual. . . . This decision by the political departments of the Government . . . has been accepted." [68]

The conclusion that a historic precedent "has been accepted" seems inconsistent with a political question holding, as was pointed out in the concurring opinion of four of the justices:

"To the extent that the Court's opinion in the present case even impliedly assumes a power to make judicial interpretation of the exclusive constitutional authority of Congress ober submission and ratification of amendments, we are unable to agree. . . .

"The Court here treats the amending process of the Constitution in some respects as subject to judicial construction, in others as subject to the final authority of the Congress. . . ." [69]

Further, it seems unlikely that the Court intended a pure political question holding, since it cited several prior Court decisions concerning article V in such a way as to indicate their continuing validity.[70]

The *Coleman* decision, if interpreted as a pure political question holding, must be understood to have reversed a clear trend in which article V questions had been considered uniformly justiciable.[71] In the decade of the Twenties, a great flurry of judicial activity centered around the eighteenth amendment (Prohibition), the nineteenth amendment (Women's Suffrage), and the proposed Child Labor Amendment. Challenges to both the content of the amendments, as well as the procedures by which they had been proposed and ratified, were decided arguably on the merits. These decisions were sufficient to construe the following italicized portions of article V which constitute virtually all of the significant portions of that article:

"The Congress, *whenever two thirds of both Houses shall deem it necessary, shall propose Amendments* to this Constitution, . . . *which . . . shall be valid to all Intents and Purposes, as Part of this Constitution*, when ratified by the *Legislatures* of three fourths of the several States, or by Conventions in three fourths thereof, as the *one or the other Mode of Ratification* may be proposed by the Congress; . . ." [72]

Hawke v. Smith [73] held that a provision in a state constitution allowing legislation to be approved by referendum was inapplicable to ratification of a constitutional amendment because ratification is not a regular legislative act.[74] In reaching this decision, the Court construed the word "Legislatures" as it appears in article V.[75] This was the first time language within the article was construed by the Court. The holding necessarily implied that the choice of the "Mode of Ratification" could not be altered by state action.

The *National Prohibition Cases* [76] also provided an example of the Court's construction of language in article V. These cases established the principle that "two thirds of both Houses" could be interpreted in terms of congressional quorums rather than the total membership of each house for the purpose of determining whether a proposed amendment was "deem[ed] . . . necessary." [77] These cases also defined "Amendments" to include additions to, rather than merely changes in, matters already included in the Constitution.[78] These two portions of article V seem far more explicitly committed to congressional power by the Constitution than is the phrase "when ratified," the phrase which must be construed to ascertain the efficacy of ratifications.

In *Dillion v. Gloss*,[79] the Supreme Court held that the adoption of the eighteenth amendment was completed as of the date of ratification by the last state required, rather than as of the date of promulgation by the Secretary of State.[80] In so doing the Court necessarily construed the clause "which shall be valid to all Intents and Purposes as Part of this Constitution."

These cases can be interpreted in several ways. First, they can be understood as decisions on the merits concerning the meaning of the words of article V which the Court arrived at independent of congressional precedent. This would give the predominant role to the judicial branch in the construction of the article. Second, the cases could be construed as not involving the merits but meaning only that the congressional interpretations were within legislative powers under article V, thus giving the primary role to Congress. Or they may be understood in a third way which yields a cooperative role for the Court and the Congress. This last approach, which shall be called the article V doctrine, views the Court as adopting on the merits past congressional interpretations of article V as definitive constructions of the Constitution.

This third interpretation is the best supported by the evidence. The Court in the article V cases has never contravened a practice adopted by Congress.[81] This is too great a coincidence to be consistent with independent judicial constitutional construction. In addition, none of the pre-*Coleman* article V cases, although not overruled by *Coleman*,[82] appear on their face to be political question holdings consistent with the second approach above. Finally, langauge in *Coleman* itself goes beyond a pure political question holding and is indicative of acceptance of congressional precedent.[83] Chief Justice Hughes' statement that historic congressional precedent "has been accepted." [84]

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was interpreted by Professor Dowling to support this assertion:

"The result of it all seems to be: . . . that the Court considers the law already settled by "historic precedent" to the effect that a state can change its vote from No to Yes (the same precedent refused to change from Yes to No). . . .

"[This] itself involves something akin to a decision on the merits. That is to say, when the Court declared that the historic precedent of the Fourteenth Amendment "has been accepted" it was in that very declaration making a pronouncement on the law. . . ." [55]

Coleman, viewed as an acceptance of, rather than a deference to, congressional precedent is consistent with the article V doctrine advanced here as a source of judicially manageable standards. Under this doctrine, once a challenge to an amendment procedure is brought before a court, it will draw the logic for its constitutional interpretation from applicable congressional precedent and declare it henceforth to be the law. The congressional interpretation will thus be endowed with the necessary finality to be a reliable guide to those interested in amending the Constitution, whether they be individual citizens, state legislators or members of Congress itself.

The policies underlying a political question holding are in no way contravened by this doctrine. The role of the legislative branch is preserved by allowing it to interpret article V in the first instance. If congressional precedent on the issue is nonexistent, or should the Court not wish to lock Congress into an interpretation once utilized, it could make clear, as part of the special article V doctrine, that its interpretation will be law only so long as Congress does not pass a prospective general statute changing the amendment rules. Even this lesser role for the Court would protect reliance and stability by preventing congressional change without notice. While the course of judicial action suggested may seem unorthodox, it takes into consideration both the legitimacy of congressional flexibility in the amendment process and at the same time forecloses the possibility of congressional change without warning.

(2) Statutory Construction

As an alternative to applying the article V doctrine as the standard by which to decide ratification questions, the courts could adopt the method of statutory construction, a more conservative source of judicially manageable standards. The only statute concerning the amendment process ever passed by Congress provided as follows:

"Whenever official notice is received at the Department of State that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution, the Secretary of State shall forthwith cause the amendment to be published, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes as part of the Constitution of the United States." [56]

As with congressional precedent itself, this statute is consistent only with the theory that rejection can be reversed, but ratification cannot.

The statute gives the Secretary of State (now the Administrator of General Services) [57] authority to act only when an amendment has been adopted. The Secretary's duty is an accounting and publication function with no discretion involved. His power is limited to counting ratifications as they are received from the states and announcing when the required proportion of the states have ratified. There is no provision in the statute for notification of a state's failure to ratify, nor is there any provision for rescinding a notification of ratification after it has been filed with the Secretary. Only once has a Secretary of State sought clarification of whether the ratification of a state attempting to rescind was still in force.[58] Congress responded in the affirmative.[59] by the time of the nineteenth amendment the precedent of ignoring reversals was so well established that the Secretary failed even to mention them in his promulgation.[60] Historic conduct under the statute is consistent solely with the theory which makes both prior rejection and attempted withdrawal null and void, a theory for which it is unnecessary to judge the efficacy of ratifications once official notice has been received.

The pre-*Coleman* article V case of *Leser v. Garnett* [61] in which the Court interpreted the pormulgation statute is consistent with this theory. In *Leser*, the nineteenth amendment was challenged on the ground that it was not ratified by the requisite number of states. Tennessee had voted to rescind earlier ratification. West Virginia's ratification was over prior rejection. Both questions concerning the efficacy of ratification were thus squarely presented to the Supreme Court in *Leser*. Justice Brandeis, for a unanimous Court, noted that the questions could be avoided on the ground that two additional states had since ratified the amendment, which arguably made the questions moot.

Nevertheless the opinion declared:

"But a broader answer should be given to the contention. The proclamation by the Secretary certified that ... the proposed Amendment was ratified by the legislatures of thirty-six states, and that it "has become valid to all intents and purposes as a part of the Constitution of the United States. . . ." As the legislatures of Tennessee and of West Virginia had power to adopt the resolutions of ratification, official notice to the Secretary, duly authenticated, that they had done so, was conclusive upon him, and, being certified to by his proclamation, is conclusive upon the courts." [62]

Thus the Secretary's duty to issue a proclamation of adoption, upon receipt of the requisite number of ratifications, without attempting in any way to judge their merit, was made even clearer. Like congressional precedent itself, the statute evidences only one meaning of the article V words "when ratified." A court could rely on *Leser* [63] and interpret this statute as the congressional decision on the law of ratification which may be held binding until repealed or amended.

The statutory construction approach, like the article V doctrine, would yield judicially manageable standards for determining the law of ratification. Should the courts follow this approach a certain amount of finality would be given to the ratification process upon which concerned citizens and legislatures might rely. At the same time, congressional participation in the process would be recognized. While the law of ratification could still conceivably be changed in the midst of a ratification period by repeal or amendment of the applicable statute, the necessity of formal action by Congress would make the likelihood of reversal of precedent less than if Congress were to remain free to accept or reject state ratifications. Statutory construction would provide greater protection for the interests of reliance and stability than if the courts were to follow a strict political question doctrine, although less than if the courts were to adopt the suggested article V doctrine.

CONCLUSION

The common assumption that ratification of a constitutional amendment is irreversible, but rejection is not, is an open legal question. With ratifications of the Equal Rights Amendment nearing the number required for adoption, there is a crucial need for an authoritative construction of the article V phrase "when ratified." Despite the traditional belief that *Coleman v. Miller*,[64] as a pure political question holding, precluded Court involvement in the amendment process, there is room for both Court and Congress in interpreting article V. The role of each would be preserved by the Court's adopting either the article V doctrine or the statutory construction theory suggested here. There is no need for the Court to substitute its judgment for that of Congress. Congressional intent is abundantly clear from its own precedent and from the promulgation statute. Either approach would serve the paramount purposes of reliance and stability. Moreover, none of the underlying policy considerations of the political question doctrine would be contravened.

Either approach would yield a firm interpretation that the meaning of "when ratified" in article V allows states to reverse rejection and later ratify, but not to rescind ratification.

LYNN ANDRETTA FISHEL.

FOOTNOTES

[1] Sec. 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Sec. 3. This amendment shall take effect two years after the date of ratification.

H.R.J. Res. 208, 92d Cong., 2d Sess. (1972); S.J. Res. 8, 92d Cong., 1st Sess. (1971).

[2] As of April, 1973, 30 of the 38 states necessary had ratified. 1 WOMEN'S RIGHTS L. REP., Spring, 1973, at 104.

[3] Nebraska has rescinded; Idaho, Tennessee and Kansas are among the states considering similar action. Letter from J. William Heckman, Counsel, Subcommittee on Constitutional Amendments, Senate Committee on the Judiciary, to State Senator Shirley Marsh, Nebraska State Senate, Feb. 20, 1973, on file with the *Indiana Law Journal* [hereinafter cited as Opinion Letter]; Letter from Donald E. Knickrehm, Idaho Assistant Attorney General, to Patricia L. McDermott, Member of House of Representatives, State of Idaho, Jan. 24, 1973, on file with the *Indiana Law Journal;* Letter from Robert H. Roberts, Tennessee Assistant Attorney General, to Victor H. Ashe, Tennessee State Representative, Mar. 13, 1973, on file with the *Indiana Law Journal;* Letter from Vern Miller, Kansas Attorney General, to Ruth Luzatti, Member of Kansas House of Representatives, Feb. 13, 1973, on file with the *Indiana Law Journal*.

[4] Interview with J. William Heckman, Counsel, Subcommittee on Constitutional Amendments, Senate Committee on the Judiciary, by telephone, October 23, 1973; *see* letters cited note 3 *supra*.

[5] 307 U.S. 433 (1939). *Coleman* dealt with the question of ratification after previous rejection. *See also* Chandler v. Wise, 307 U.S. 474 (1939). *Chandler* was a companion case to *Coleman* which presented the converse situation of withdrawal of ratification and was dismissed for lack of a justiciable question.

[6] *See* text accompanying notes 16–19 *infra*.

[7] U.S. Const. art V.

[8] L. ORFIELD, THE AMENDING OF THE FEDERAL CONSTITUTION 70–72 (1942) [hereinafter cited as ORFIELD].

[9] 307 U.S. 474 (1939). According to Professor Orfield although treating both acceptance and rejectiol as conclusive is logically consistent and would somehow protect minority rights, this position has received little support. *See* ORFIELD, *supra* note 8, at 70.

[10] Coleman v. Miller, 146 Kan. 390, 71 P.2d 518 (1937), *aff'd on other grounds*, 307 U.S. 433 (1939). The argument supporting this theory is that the Constitution creates only the positive power to ratify. Ratification will therefore exhaust the power granted, but

failure to ratify will leave it intact to be exercised at any time within the period set by Congress. It follows from this view of the powers under article V that ratification once given cannot be rescinded. H. AMES, PROPOSED AMENDMENTS TO THE CONSTITUTION, H.R. Doc. No. 353, 54th Cong., 2d Sess., pt. 2, at 299–300 (1897); *see* W. WILLOUGHBY, THE CONSTITUTIONAL LAW OF THE UNITED STATES § 329a (1929); J. JAMESON, A TREATISE ON CONSTITUTIONAL CONVENTIONS §§ 576–84 (1887) [hereinafter cited as JAMESON].

[11] The term designating this theory is original. Professor Orfield seems to favor the position which is based on the argument that ratification should not be more final than rejection. He states:

"[T]here are even stronger practical arguments. It is more democratic to allow the reversal of prior action. A truer picture of public opinion at the final date of ratification is obtained. No great confusion is likely to result from such a rule. . . ."

ORFIELD, *supra* note 8, at 72. Orfield does not seem to comprehend the practical difficulties this proposed procedure would entail.

[12] *See* notes 3 & 4 *supra*. *See also* text accompanying notes 22–24 *infra* (discussion of congressional precedent).

[13] 307 U.S. 433, 450 (1939).

[14] H.R.J. Res. 184, 68th Cong., 1st Sess., 43 Stat. 670 (1924).

[15] Coleman v. Miller, 146 Kan. 390, 71 P.2d 518, *aff'd on other grounds*, 307 U.S. 433 (1939).

[16] Coleman v. Miller, 307 U.S. 433, 447 (1939). Two other questions, not relevant to the subject of this note, were also presented.

[17] 307 U.S. at 450. Since *Coleman* did not involve the situation presented by a state's attempt to rescind ratification, it could be argued that attempted withdrawal could not properly have been held a political question. But logically, there is no reason to distinguish between reversal of ratification or ratification over previous rejection. This logic is supported by the approach of the *Coleman* Court which dealt with both types of reversal as if they raised the same legal issue. *Id.*

[18] Dowling, *Clarifying the Amending Process*, 1 WASH. & LEE L. REV. 215, 219 (1940) [hereinafter cited as Dowling]. N SMALL, THE CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRETATION, S. Doc. No. 39, 88th Cong., 1st Sess. 799–803 (1964) [hereinafter cited as CORWIN because it is popularly known by the name of the original compiler, Edward S. Corwin].

[19] 307 U.S. at 450.

[20] *See* Clark, *The Supreme Court and the Amending Process*, 39 VA. L. REV. 621, 635 (1953 [hereinafter cited as Clark]; Dowling, *supra* note 18, at 215; Opinion Letter, *supra* note 3.

[21] *See* note 4 *supra* & text accompanying.

[22] *See* notes 9–11 *supra* & text accompanying.

[23] This itself may have been a break with precedent. Among the first remarks which appear in the record concerning the question of adoption is the assertion by Senator Sumner that "in times past it has been the habit to leave this question to the Secretary of State, who has made an official certificate on the subject. . . ." CONG. GLOBE, 40th Cong., 2d Sess. 453 (1868) [hereinafter cited as 40TH CONG.] Senator Sumner is likely to be dependable on the question of prior practice in this instance as he disagreed with it and was urging the Senate to pass a joint resolution proclaiming the amendment adopted. His joint resolution was referred to the Judiciary Committee without comment on its substance by any other Senator, and no action was taken. *Id.* For the text of the statute authorizing the Secretary of State to so act see text accompanying note 86 *infra*.

[24] 40TH CONG., *supra* note 23, at 876–78.

[25] *Id.* at 878.

[26] 15 Stat. 706–07 (1868).

[27] 40TH CONG., *supra* note 23, at 4266, 4270.

[28] 15 Stat. 708–11 (1868).

[29] CONG. GLOBE, 41st Cong., 2d Sess. 1444 (1869) [hereinafter cited as 41st CONG.].

[30] 16 Stat. 1131–32 (1870).

[31] 41ST CONG., *supra* note 29, at 2298.

[32] *See* note 27 *supra* & text accompanying.

[33] Opinion Letter, *supra* note 3, at 4.

[34] 41 Stat. 1823 (1920).

[35] Chief Justice Hughes reached the same conclusion. Coleman v. Miller, 307 U.S. 433, 450 (1939).

[36] *See* note 9 *supra* & text accompanying.

[37] *See* note 11 *supra* & text accompanying.

[38] Black, *Amending the Constitution*, 82 YALE L. J. 189, 191–92 (1972).

[39] The most cogent modern example of this practice is the attempt, led by then Representative Ford (D.-Mich.), to impeach Supreme Court Associate Justice Douglas. *See* HOUSE COMM. ON THE JUDICIARY, 91ST CONG., 2D SESS., FINAL REPORT BY THE SPECIAL SUBCOMM. ON H. RES. 920 (Comm. Print 1970). Despite Representative Ford's assertion "that an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history," *id.* at 36, the Special Subcommittee took great pains to go back through all past examples of impeachment attempts, to reconcile apparently conflicting precedents, and to test all the charges against the parameters they were able to develop, and concluded that their search had "not disclosed creditable evidence that would warrant preparation of charges on any acceptable concept of an impeachable offense." *Id.* at 349.

[40] Opinion Letter, *supra* note 3, at 1. The conclusion is based on the following argument of Judge Jameson:

"The language of the Constitution is, that amendments proposed by Congress, in the mode prescribed, 'shall be valid to all intents and purposes, as part of this Constitution, *when ratified by the legislatures of three-fourths of the several states. . . .*' By this language is conferred upon the States, by the national Constitution, a special power; it is not a power belonging to them originally by virtue of rights reserved or otherwise. When exercised, as contemplated by the Constitution, by ratifying, it ceases to be a power, and any attempt to exercise it again must be nullity. But, until so exercised, the power undoubtedly, for a reasonable time at least, remains. . . . When ratified all power is expended. Until ratified the right to ratify remains."

JAMESON, *supra* note 10, §§ 579–81, at 628–30 (emphasis in original).

[41] Coleman v. Miller, 307 U.S. 433, 450 (1939).

[42] *See* note 26 *supra*.

[43] Opinion Letter, *supra* note 3, at 4. *See* note 26 *supra* & text accompanying.

[44] *Id.*

[45] *See* authorities cited notes 3 & 4 *supra*.

[46] Just the possibility of change raises questions of central importance which cannot be answered. Is it worth the effort to try to get a rejecting state to ratify? Is it worth the effort to try to get a ratifying state to reverse and attempt to rescind ratification? If a state has passed a rescinding resolution, is the original ratification to be relied on, or should efforts be mounted for re-reversal? How real is the possibility of change by Congress?

[47] 307 U.S. 433 (1939).

[48] Baker v. Carr, 369 U.S. 186, 215 (1962).

[49] Clark, *supra* note 20, at 649 (emphasis added).

[50] Dowling, *supra* note 18, at 220 (emphasis added).

[51] *See* notes 16–19 *supra* & text accompanying.

[52] 369 U.S. 186 (1962).

[53] *Id.* at 207 (emphasis added). The following standards, inapplicable here, were also listed in the opinion:

"[T]he impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question."

Id.

[54] *See* text accompanying note 7 *supra*.

[55] 395 U.S. 486 (1969).

[56] *Id.* at 550. Professor Wechsler had listed article 1, § 5 among the few explicit textual commitments in the Constitution. Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 HARV. L. REV 1, 8 (1959). The text of article 1, § 5 seems much more of a commitment to Congress than the expression "when ratified" from article V which would need to be interpreted in any redetermination of whether ratification is a political question.

[57] 395 U.S. at 521.

[58] *Id.* at 521–48.

[59] ORFIELD, *supra* note 8, at 2.

[60] *Id.* at 61. Likewise, Clark states:

"In view of the apprehension of the writers of the Constitution caused by giving Congress power to propose amendments, [1 FARRAND, RECORDS OF THE FEDERAL CONVENTION OF 1787, 202–203 (1911); 2 *id.* at 629–31] the holding of the *Coleman* case provides an interesting example of the change both in outlook and method of government which has occurred since 1789."

Clark, *supra* note 20, at 651.

[61] *See* text accompanying note 53 *supra*.

[62] 395 U.S. 486, 549 (1969).

[63] Overruling *Coleman* would be unnecessary because the portion of the opinion which found it impossible to fashion judicially manageable standards related solely to the question of the lapse of time since the proposal of the amendment. Coleman v. Miller, 307 U.S. 433, 453 (1939). The absence of standards was not one of the factors which led the Court to conclude that efficacy of ratification was a political question.

[64] That statute is codified at 1 U.S.C. § 106b (1970).

[65] A third possible source of standards would be an independent constitutional construction theory. This theory is not advocated, however, because it would not protect reliance interests. The Court has stated that it does not consider itself bound by the constitutional interpretations of a coordinate branch. Powell v. McCormack, 395 U.S. 486, 549 (1969). Therefore, a court would be free to ignore congressional precedent and adopt any of the three possible interpretations of the article V phrase "when ratified." *See* notes 9–11 *supra* & text accompanying. Another objection to the theory is that it would threaten the separation of powers policies embodied in the political question doctrine. Baker v. Carr, 369 U.S. 186, 217 (1962).

[66] It is the language of Chief Justice Hughes, writing the opinion of the Court, that is capable of reinterpretation. It was not a majority opinion, however, and votes of those who joined in Justice Black's concurring opinion were necessary to reach the result. The concurrence is much more clearly a pure political question holding and therefore not capable of such reinterpretation. *See* Coleman v. Miller, 307 U.S. 433, 456–60 (1939) (concurring opinion).

[67] *Id.* at 450.

[68] *Id.* The Court then stated:

"The precise question as now raised is whether, when the legislature of the State, as we have found, has actually ratified the proposed amendment, the Court should restrain the state officers from certifying the ratification to the Secretary of State, because of an earlier rejection, and thus prevent the question from coming before the political departments. We find no basis in either Constitution or statute for such judicial action.

Article V, speaking solely of ratification, contains no provision as to rejection. Nor has the Congress enacted a statute relating to rejections. . . .

"The statute [now codified at 1 U.S.C. § 106b (1970)] presupposes official notice to the Secretary of State when a state legislature has adopted a resolution of ratification. We see no warrant for judicial interference with the performance of that duty."

Id. at 450–51. Again, the opinion seems to say too much to be completely consistent with a political question holding. The statement could be read to construe both the statute, and article V itself as having nothing to do with rejections. This would provide further support for the argument that the *Coleman* holding, as to efficacy of ratification, should be reexamined and reinterpreted to yield a special article V doctrine.

[69] *Id.* at 458.

[70] The Court's opinion included references to: Leser v. Garnett, 258 U.S. 130 (1922); Dillon v. Gloss, 256 U.S. 368 (1921); Hawke v. Smith, 253 U.S. 221 (1920); National Prohibition Cases, 253 U.S. 350 (1920).

[71] CORWIN, *supra* note 18, at 802; Dowling, *supra* note 18, at 215; Clark, *supra* note 20, at 646. Prior to *Coleman*, the only exception to the presumption of justiciability seems to be Luther v. Borden, 48 U.S. (7 How.) 1, 39 (1849) where the validity of adoption of an amendment is alluded to in dicta as a political question. In an even earlier case, Hollingsworth v. Virginia, 3 U.S. (3 Dall.) 378 (1798), questions as to the legality of an amendment has been assumed to be justiciable and the Court ruled on the merits concerning a step in the process of proposal.

[72] U.S. Const. art. V (emphasis added).

[73] 253 U.S. 221 (1920).

[74] *Id.* at 228.

[75] *Id.* at 227.

[76] 253 U.S. 350 (1920).

[77] *See id.* at 386.

[78] *Id.*

[79] 256 U.S. 368 (1921).

[80] The Court's determination resulted in affirming the denial of a petition for a writ of habeas corpus by a defendant who had been convicted of transporting intoxicating liquor. If, as he had argued, the effectiveness of the amendment depended on the date of promulgation, the amendment would not have been in effect at the time of his arrest. *Id.* at 370, 376.

[81] ORFIELD, *supra* note 8, at 13 n.12.

[82] *See* note 70 *supra* & text accompanying.

[83] Coleman v. Miller, 301 U.S. 433, 450 (1939).

[84] *Id.*

[85] Dowling, *supra* note 18, at 219.

[86] Act of April 20, 1818, ch. § 2, 3 Stat. 439. The statute was amended in 1951, but the only change was to substitute "General Services Administration" for "Department of State" and "Administrator of General Service" for "Secretary of State." Act of October 31, 1951, ch. 655, § 2(b), 65 Stat. 710, *amending* 5 U.S.C. § 160 (1940) (codified at 1 U.S.C. § 106b (1970)).

[87] *See* note 86 *supra.*

[88] 15 Stat. 706–707 (1868) (during ratification of the fourteenth amendment).

[89] 40TH CONG., *supra* note 23, at 4266, 4270.

[90] 41 Stat. 1823 (1920).

[91] 258 U.S. 130 (1922).

[92] *Id.* at 137.

[93] The precedential value of *Leser* may be questioned in light of Coleman v. Miller, 307 U.S. 433 (1939). The commentators are divided as to *Coleman's* effect on prior article V cases. *See* Bonfield, *Proposing Constitutional Amendments by Convention: Some Problems*, 39 NOTRE DAME LAWYER 659 (1964); Dowling, *supra* note 18, at 220.

Nevertheless, *Coleman* cited *Leser* for the following proposition:

"The statute [now U.S.C. § 106b (1970)] presupposes official notice to the Secretary of State when a state legislature has adopted a resolution of ratification. We see no warrant for judicial interference with the performance of that duty."

307 U.S. at 451. Thus, it was clear that *Leser* was not overruled since it was cited as authority for at least a portion of the holding.

[94] 307 U.S. 433 (1939).

ALLOCATION OF FOREIGN ASSISTANCE FUNDS

Mr. INOUYE. Mr. President, section 653 of the Foreign Assistance Act requires that within 30 days after the enactment of any law appropriating funds for foreign assistance the President reports any change in allocation of these funds by country.

Public Law 93–240, making appropriations for foreign assistance and related programs for fiscal year 1974, was enacted on January 2, 1974.

The new allocations of that assistance have been provided as required by law. I ask unanimous consent that a table reflecting these changes for military assistance, economic assistance, and the International Narcotics Control program be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1974 COUNTRY ALLOCATIONS OF GRANT MILITARY ASSISTANCE, BUDGET ESTIMATE COMPARED TO REVISED ALLOCATIONS

[In thousands of dollars]

	MAP	Supply OPs	Training	Total[1]	Revised allowance Feb. 5, 1974	Difference
Latin American region:						
Argentina			650	650	600	−50
Bolivia	3,996	250	454	4,700	2,980	−1,720
Brazil			800	800	800	
Chile			1,000	1,000	900	−100
Colombia			800	800	800	
Dominican Republic	796	70	534	1,400	880	−520
El Salvador	400	40	535	975	640	−335
Guatemala	1,080	100	520	1,700	799	−901
Honduras	400	30	535	965	640	−325
Mexico			140	140	140	
Nicaragua	1,023	40	437	1,500	835	−665
Panama	230	20	250	500	420	−80
Paraguay	550	50	500	1,100	850	−250
Peru			900	900	900	
Uruguay	1,000	100	400	1,500	802	−698
Venezuela			1,000	1,000	900	−100
Regional	525		1,210	1,735	400	−1,335
Subtotal	10,000	700	10,665	21,365	14,286	−7,079
European region:						
Austria			30	30	30	
Finland			20	20	20	
Portugal	323	100	477	900	900	
Spain	3,026	2,000	374	5,400	5,400	
Regional			50	50	50	
Subtotal	3,349	2,100	951	6,400	6,400	
African region:						
Ethiopia	10,454	1,200	796	12,450	12,500	+50
Ghana			50	50	40	−10
Liberia			100	100	100	
Mali			50	50	40	−10
Morocco			1,000	1,000	850	−150
Senegal			20	20	20	
Tunisia	2,476	100	324	2,900	1,300	−1,600
Zaire			400	400	350	−50
Regional			80	80	80	
Subtotal	12,930	1,300	2,820	17,050	15,280	−1,770
Near East and South Asia region:						
Afghanistan			215	215	200	−15
India			200	200	200	
Jordan	35,632	3,900	468	40,000	39,950	−50
Lebanon			150	150	150	
Nepal			30	30	25	−5
Pakistan			243	243	235	−8
Saudi Arabia			200	200	200	
Sri Lanka			50	50	15	−35
Turkey	85,501	12,500	2,499	100,500	61,200	−39,300
Regional			50	50	50	
Subtotal	121,133	16,400	4,105	141,638	102,225	−39,413
East Asia and Pacific region:						
Cambodia	167,194	13,500	5,806	186,500	[2] 142,349	−44,151
China, Republic of		5,700	500	6,200	6,100	−100
Indonesia	20,826	2,200	1,974	25,000	19,800	−5,200
Korea	238,789	22,500	2,411	263,700	134,800	−128,900
Malaysia			200	200	200	
Philippines	19,269	2,100	631	22,000	18,900	−3,100
Thailand	55,762	2,700	1,450	59,912	38,473	−21,439
Regional			300	300	300	
Special equipment transfer	28,300			28,300	28,300	
Subtotal	530,140	48,700	13,272	592,112	389,222	−202,890
General costs	24,748		1,187	25,935		−25,935
Grand total	702,300	69,200	33,000	804,500	527,413	−277,087

[1] Represents the President's original congressional request.

[2] This sum does not include the value of military assistance to Cambodia to be furnished under section 506, FAA, as amended.

AGENCY FOR INTERNATIONAL DEVELOPMENT—REVISED FISCAL YEAR 1974 PROGRAM ALLOCATIONS COMPARED WITH FISCAL YEAR 1974 CONGRESSIONAL PRESENTATION

BILATERAL PROGRAMS[1]

[In thousands of dollars]

	Fiscal year—		
	Congressional presentation	Revised program allocations	Change
AFRICA			
Ethiopia	17,480	15,382	−2,098
Ghana	13,265	2,864	−10,401
Kenya	10,440	12,920	+2,480
Liberia	3,150	3,148	−2
Morocco	7,617	1,922	−5,695
Nigeria	7,655	4,130	−3,525
Sudan	5,400	5,285	−115
Tanzania	5,840	2,698	−3,142
Tunisia	9,408	2,793	−6,615
Uganda	360	160	−200
Zaire	7,125	1,587	−5,538
Central West Africa regional	37,615	47,808	+10,193
East Africa regional	1,600	928	−672
Southern Africa regional	12,428	15,034	+2,606
Africa regional	18,547	17,213	−1,334
Countries that receive self-help funds only, total	1,800	1,800	
Botswana	(2)	(60)	
Burandi	(2)	(10)	
Cameroon	(2)	(80)	
Central Africa Republic	(2)	(100)	
Chad	(2)	(100)	
Dahomey	(2)	(155)	
Gabon	(2)	(40)	
Gambia	(2)	(40)	
Guinea	(2)	(20)	
Ivory Coast	(2)	(30)	
Lesotho	(2)	(98)	
Malagasy	(2)	(20)	
Malawi	(2)	(90)	
Mali	(2)	(40)	
Mauritania	(2)	(60)	
Mauritius	(2)	(35)	
Niger	(2)	(100)	
Rwanda	(2)	(110)	
Senegal	(2)	(65)	
Seychelles	(2)	(10)	
Sierra Leone	(2)	(85)	
Swaziland	(2)	(85)	
Togo	(2)	(117)	
Upper Volta	(2)	(100)	
Zambia	(2)	(26)	
Undistributed		(124)	
Total, Africa	159,730	135,672	−24,058
LATIN AMERICA			
Argentina	310	0	−310
Bahamas	15	0	−15
Barbados	12	0	−12
Bolivia	23,683	23,359	−324
Brazil	6,100	4,363	−1,737
Chile	647	400	−247
Colombia	63,731	37,037	−26,694
Dominican Republic	10,894	8,032	−2,862
Ecuador	4,661	2,834	−1,827
Guyana	4,174	1,172	−3,002
Haiti	8,900	7,896	−1,004
Jamaica	7,965	8,287	+322
Mexico	375	0	−375
Netherlands Antilles	3	0	−3
Panama	13,082	7,322	−5,760
Paraguay	6,295	7,860	+1,565
Peru	4,028	2,080	−1,948
Uruguay	1,305	909	−396
Venezuela	399	197	−202
Central regional programs (ROCAP)	13,260	1,792	−11,468
Costa Rica	1,065	8,006	+6,941
El Salvador	9,564	8,152	−1,412
Guatemala	12,807	12,645	−162
Honduras	18,026	16,952	−1,074
Nicaragua	18,553	16,909	−1,644
Caribbean regional	5,750	500	−5,250
Latin America regional	23,260	14,725	−8,535
Latin American program	15,800	15,259	−541
Total, Latin America	274,664	206,688	−67,976
ASIA			
Afghanistan	17,887	13,481	−4,406
Bangladesh	55,500	30,500	−25,000
Cambodia	75,000	95,000	+20,000
India	76,500	500	−76,000
Indonesia	101,431	98,668	−2,763
Israel	25,000	50,000	+25,000
Jordan	66,100	55,805	−10,295
Korea	27,011	26,564	−447
Laos	57,410	40,600	−16,810
Lebanon	75	0	−75
Nepal	9,000	9,546	+546
Pakistan	63,542	11,777	−51,765
Philippines	28,981	29,695	+714
Thailand	17,614	9,835	−7,779
Turkey	57,510	9,928	−47,582
Vietnam	476,682	410,560	−66,122
Yemen Arab Republic	7,200	1,917	−5,283
Asia regional	13,140	9,135	−4,005
East Asia regional	9,000	7,086	−1,914
Total, Asia	1,184,583	910,597	−273,986
EUROPE			
Malta	9,500	9,500	
Spain	3,000	3,000	
Total, Europe	12,500	12,500	

Does not include Public Law 480.

[2] In the 1974 Congressional presentation, individual amounts per country were not distributed.

MULTILATERAL PROGRAMS[1]

[In thousands of dollars]

	Fiscal year—		
	Congressional presentation	Revised program allocations	Change
U.N. Food and Agricultural Organization—World:			
Food Program	1,500	1,500	
Indus Basin Loans	2,200	2,000	−200
Indus Basin Grants	15,000	9,000	−6,000
International Atomic Energy	2,000	2,000	
International Secretariat for Voluntary Services	72	72	
U.N. Development Program	90,000	87,226	−2,774
U.N. Children's Fund	15,000	18,000	+3,000
U.N. Fund for Naimibia	50	50	
U.N. Fund for Population Activities	20,000	18,000	−2,000
U.N. Environment Fund	10,000	7,500	−2,500
U.N. Forces in Cyprus	4,200	1,600	−2,600
Organization for Economic Cooperation and Development		50	+50
World Meterological Organization	1,500	1,500	
U.N. Institute for Training and Research	400	400	
U.N. Relief Works Agency	14,300	16,300	+2,000
International Commission for Control and Supervision		7,200	+7,200
U.N. Drug Abuse Control	5,000	0	−5,000
Colombo Plan—Narcotics Program	100	0	−100
Total, multilateral programs	181,322	172,298	−8,924

[1] Does not include appropriations for the international development banks.

OTHER

[In thousands of dollars]

	Fiscal year 1974—		
	Congressional presentation	Revised program allocations	Change
Interregional programs (including TAB, PHA and operating costs)[1]	167,502	217,721	+50,219
American schools and hospitals abroad	10,000	18,752	+8,752
Administration expenses:			
AID	57,875	43,376	−14,499
State	5,100	4,927	−173
Contingency fund	30,300	4,902	−25,398
Undistributed narcotics program	9,738		−9,738
Disaster relief supplemental		150,000	+150,000
Partners of the Alliance		750	+750
Total, other	280,515	440,428	+159,913
Grand total	2,093,314	1,878,283	−215,031

[1] Operating costs included in development assistance country totals in the fiscal year 1974 congressional presentation are included in Other Programs category in the Sec. 653 Report of February 1974.

INTERNATIONAL NARCOTICS CONTROL PROGRAM—FISCAL YEAR 1974 CONGRESSIONAL PRESENTATION COMPARED WITH FISCAL YEAR 1974 PROGRAM ALLOCATIONS

[In thousands of dollars]

Country program	Fiscal year 1974— Congressional presentation	Program allocations	Difference (+) or (−)
Asia:			
Afghanistan	300		−300
Burma		2,500	+2,500
Cambodia		3	+3
Indonesia	18	50	+32
Laos	1,500	1,546	+46
Lebanon	75		−75
Pakistan	50	2,750	+2,700
Philippines	265		−265
Singapore		40	+40
Thailand	1,114	6,615	+5,501
Turkey	15,000	15,029	+29
Vietnam	182	180	−2
Total	18,504	28,713	+10,290
Latin America:			
Argentina	310	180	−130
Bahamas	15		−15
Barbados	12		−12
Bolivia	4	35	+31
Brazil	100	148	+48
Chile	75		−75
Colombia	238	377	+139
Ecuador	300	238	−62
Guyana	2		−2
Jamaica	26	34	+8
Mexico	375	4,635	+4,260
Netherlands Antilles	3		−3
Panama	20	17	−1
Paraguay	22	12	−13
Peru	250	251	+0
Uruguay	135	20	−115
Venezuela	40	43	+3
Total	1,927	5,990	+4,063
Africa:			
Tunisia	50		−50
International organizations:			
UN special fund	5,000	2,000	−3,000
CENTO		19	+19
Colombo	100	99	−1
Total	5,100	2,118	−2,982
Worldwide program costs:			
Training	6,731	5,454	−1,277
International costs	450	225	−225
Total	7,181	5,679	−1,502
Unprogramed	9,738		−9,738
Grand total	42,500	42,500	

MEET THE PRESS

Mr. ROBERT C. BYRD. Mr. President, last Sunday, March 3, I was interviewed on "Meet the Press," a public affairs production of NBC News. The program was moderated by NBC's Edwin Newman, and the panel consisted of Walter Mears of The Associated Press, Jack Germond of the Washington Star-News, Neil MacNeil of Time, and Bill Monroe of NBC News.

I ask unanimous consent that the transcript of that interview be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

"MEET THE PRESS"

Mr. NEWMAN. Our guest today on "Meet the Press" is the Senate Democratic Whip, Robert C. Byrd of West Virginia. Senator Byrd came to the Senate in 1958 after three terms in the House of Representatives. He was elected Democratic Whip in 1971.

We will have the first questions now from Bill Monroe of NBC News.

Mr. MONROE. Senator Byrd, the Watergate indictments on Friday said the President attended a meeting at which hush payments were discussed. They say—they suggest—the President did not call such payment wrong as testified by Mr. Haldeman and that hush money payments actually began later the same day of that meeting. Do these factors suggest to you possible criminal participation in the cover-up by the President.

Senator BYRD. They pose serious implications for the President, especially in view of the fact that the Grand Jury submitted to Judge Sirica a secret report, which I think we have good reason to presume bears on the role and conduct of the President.

Mr. MONROE. Should this report submitted to Judge Sirica, apparently with the request of the Grand Jury, that it go on to the Rodino Impeachment Committee, be sent by the Judge, in your opinion, to the committee?

Senator BYRD. In my judgment, it should.

Mr. MONROE. Do these matters in the indictment such as I have referred to earlier raise questions of possible criminal participation in the cover-up by the President?

Senator BYRD. Well, they certainly, as I say, pose serious implications for the President, and I think for the first time the Watergate cover-up has been brought directly to the Oval Office.

Mr. MONROE. Senator, many people want to get the whole Watergate business over with as soon as possible. If we have an impeachment of the President from the House this spring or summer, what about a possible timetable for a trial by the Senate?

Senator BYRD. Well, in the case of Andrew Johnson, the Senate began the trial about two weeks after the House impeached. I see no reason why, if the House impeaches, the Senate could not move rather quickly to the trial. The rules are already stated in the Senate manual, and I think it would be expedited quickly.

Mr. MONROE. And there is a possibility from what you say that the trial could be concluded during the fall.

Senator BYRD. I think there is that possibility, because the impeachment rules preclude filibusters; they are very tight rules, and I think they are calculated to move the trial along.

Mr. GERMOND. Senator, in view of the scope of the Administration and White House involvement in Watergate now revealed 30 or 31 indictments including four of the five or six people closest to the President, do you feel that President Nixon must resign?

Senator BYRD. The President has said he will not resign. Only he can or will determine when or whether he will resign. He certainly will not resign at the urging of Democrats. If he resigns, it will be at the urging of Republicans and based on public opinion; but he says that he will not resign.

Mr. GERMOND. Even if he might not resign at the urging of Democrats, do you think it would be a good thing for the country if he were to resign?

Senator BYRD. He says he won't resign, and I think that the impeachment proceedings will determine for the country whether or not the evidence is there for the removal of the President.

Mr. GERMOND. The Democrats in the Senate have generally taken the position they didn't want to discuss the President's ultimate guilt because they were going to have to vote, if there is an impeachment, vote to convict or not. Leaving aside the narrow questions that might be an impeachment, do you feel the Democrats are fulfilling their rules as loyal opposition in not taking a strong position on the morality of the Administration, its conduct of the stewardship of the government?

Senator BYRD. They are taking a strong position on the morality of the activities of the Administration, but this doesn't mean that they need to publicly proclaim that they are for or against impeachment or for the conviction of the President.

Each Senator, in the event the House impeaches, will have to take an oath that, in all things appertaining to the trial of the impeachment, he will do justice impartially according to the Constitution and the laws. As far as I am concerned, I don't think any Senator—as far as I am concerned, I don't think I should attempt in any way to prejudge the case until the evidence is before me.

Mr. MACNEIL. Senator, are you assuming that under no circumstances will Mr. Nixon resign?

Senator BYRD. No, I am not assuming that. Mr. Agnew said that he would not resign, but he resigned. I would expect that developments could occur that would cause Mr. Nixon to change his mind, but he has said that he will not resign and he gives no indications of that.

Mr. MACNEIL. Well, do you assume then there will be an impeachment and a trial before the Senate?

Senator BYRD. I think that the House is moving inexorably toward an impeachment vote; whether or not the House impeaches remains to be seen. I cannot say whether the votes are there at this time.

Mr. MACNEIL. I would like to know what you as party leader and what the party leaders in the Senate have done by way of preparing for the trial. Has any preliminary work been done?

Senator BYRD. No preliminary work needs to be done now because, as I have indicated already on this program, the rules are specifically set out in the Senate Manual to govern impeachment trials. They are very strict and they are calculated to move the trial along without delay.

Mr. MACNEIL. And there is no confusion in your mind that the Senate itself would understand the processes. There is apparently a good bit of difficulty in the House. The House Judiciary Committee spent almost a

year preparing for the impeachment process. You have not done that?

Senator BYRD. I don't think there needs to be any preparation at this time in the Senate. The Chief Justice of the United States would preside; the rules are there; the President may have his own attorneys to defend himself; the House would appoint managers on the part of the House. I see no problem insofar as the Senate impeachment rules are concerned. I see no need for preparation in advance beyond those rules.

Mr. MEARS. Senator, whatever the sealed report may show, do you think the President should be held responsible in such proceedings for the actions of people he appoints to his staff and to the Cabinet?

Senator BYRD. I think the President should be held responsible for the actions of his subordinates. Mr. Nixon has indicated that he is responsible for those actions. I think that every public official should be held responsible for the excesses of his subordinates.

Mr. MEARS. And you feel that the actions of subordinates are material to impeachment proceedings?

Senator BYRD. To some degree, in that they might reflect upon gross neglect of duty on the part of the President and a gross negligence in the supervision of his subordinates.

Mr. MEARS. You said some time ago that without the strong support of public opinion it would be difficult for Members to vote for impeachment. Is there now strong support in public opinion for impeachment?

Senator BYRD. I think public opinion is probably growing in that direction. I think it would be very difficult for Members of the House—and I am not a Member of the House—to vote to impeach the President if there were a solid majority of public opinion against it.

Mr. MEARS. Of course the task in the Senate is mathematically more difficult because two-thirds vote is required. Is there any realistic prospect, given the lineup of the Senate now, there would be a two-thirds vote for impeachment?

Senator BYRD. As of today, in my judgment, there would not be a two-thirds vote. I have not talked with any Senator in this regard. No Senator has revealed to me how he would vote, but looking down the list and knowing something about the philosophies of Senators and ideologies and what their positions normally are on political questions, et cetera, I think I have some idea that there would be 15 to 20 perhaps who would vote to convict today. But that doesn't mean that they would not vote to convict at a time in the future when the impeachment trial is before them and they have the evidence before them.

Mr. MONROE. Do you see the President as having any constitutional right to withhold requested evidence, assuming it is relevant, from either the House impeachment process or from a possible later trial in the Senate?

Senator BYRD. I do not. I think that the trial of impeachment stands on the highest of constitutional grounds. I can see no proper invocation of the doctrine of executive privilege in an impeachment proceeding. The Members of the House—and certainly those on the Judiciary Committee—I would assume are cleared for national security. We have Members of the Foreign Relations Committee, the Armed Services Committee, the Appropriations Committee who annually listen to matters that deal with national security and the most sensitive and classified of matters. So I don't think the President could invoke the doctrine of executive privilege in this kind of situation, because this is the highest inquest of the nation and it goes to the very core of our constitutional system of government. I would hope that he would not attempt to invoke that doctrine, and I don't think it would stand up if he did.

Mr. MONROE. Senator, if the President did withhold evidence from the Congress, could that in itself become grounds for impeachment or for conviction?

Senator BYRD. It certainly could. The House could move to hold the President in contempt. I think this psychologically would have a very damaging effect upon the President, and I think it might also sway votes that up to that point might be on the fence.

Mr. MONROE. Are you one of those who believes the Congress can hold the President to account for conduct other than the criminal?

Senator BYRD. I am. Naturally the President and his lawyers are outlining a strategy just now that will reduce the number of impeachable offenses to the lowest common denominator. Every subject of impeachment in American history has sought to do this because it narrows the parameters of impeachable offenses. The criminal law was meant to guide the conduct of every citizen, and it does not address itself to excesses on the part of the President or abuses of presidential power.

I feel that the construction should be a broader one.

Mr. GERMOND. Let me just follow that, Senator.

Do you feel that the excesses or abuses can only be judged in the context of an impeachment resolution, an impeachment trial of the Senate? Is it possible for you to make a judgment about these things? By "you", I mean the Democratic leadership in the Senate, the Democratic party national leadership aside from that process.

Senator BYRD. I think without and until such time as the facts are all before us, it would not be possible to precisely indicate the nature of impeachable conduct.

Mr. GERMOND. You think it has to be impeachable conduct though? You don't feel there is any situation at which the Democrats would be acting responsibly by calling for the President to step aside, short of impeachment?

Senator BYRD. I do not. I think that partisan considerations should be thoroughly disentangled from any consideration with respect to impeachment. As a matter of fact, I think as far as purely partisan considerations are concerned, the Democrats would be better off if the President remained in office until the very last minute of his term.

Mr. GERMOND. One man's partisanship is another man's leadership. Do you have any feeling that the Democratic party is not exerting leadership on this issue?

Senator BYRD. I think there is every indication in the House, where the Democrats are in the leadership, that the Judiciary Committee is moving forward expeditiously and cautiously with the impeachment inquiry.

I don't think that the House leadership is recreant in its duty in this regard at all.

Mr. MACNEIL. Senator, let me ask you about the politics of it. How do you read the politics so far?

First off, the election for the Ford seat in Michigan which went to a Democrat in an upset, and next week's election, are the Republicans being as badly hurt in your judgment as it seems?

Senator BYRD. Well, yes, I think so. I think that the ripples of apprehension that ran through the Republican party after Michigan, will become shock waves of apprehension in the event the Democrat wins in the Tuesday Congressional election in Ohio.

I think that more and more, as the voters begin to connect Watergate with the problems that nag their everyday lives—the energy problem, economy, unemployment, inflation, and so on—Watergate is going to become more and more a disaster to Republican candidates in the fall.

Mr. MACNEIL. Would you expect the Democrats this fall to be campaigning against this corruption in the Administration?

Senator BYRD. I would expect that the Democrats would campaign against the overall picture of a comedy of errors: the energy problem, the economy, inflation, lack of credibility in government, etc.

Mr. MACNEIL. A final question: Do you see the Republicans, in Congress, among your colleagues, weakening in their support of the President as far as voting for impeachment goes?

Do you think they are more inclined to vote for impeachment, with the election results so far?

Senator BYRD. The Republicans in the House may be more inclined as they begin to connect Watergate with their own political fortunes.

Mr. MEARS. Senator, for all the Administration's problems the President still enjoys a higher job rating in the polls than does the Congress. There is a Harris survey that says only 21 per cent of the people think Congress is doing a good job. Why should Congress be held in such low esteem, particularly at this point in history?

Senator BYRD. There is a University of Michigan poll taken in January which shows that 45 per cent of the people feel that Congress has done a better job than any other institution of government during the last two years, and only 25 percent of the people felt that the President has done a better job.

26 per cent of the people felt that the Supreme Court had done a better job.

I think that the true record of Congress and the true image of Congress have not gotten across to the voters. I also think that the distrust on the part of the public toward the President results in growing disillusionment toward Congress and all other institutions of government. So I think that Congress bears the brunt of part of the distrust and the disaffection of the voters toward the White House.

Mr. MEARS. Why do you think the true image of Congress is not getting across to the voters and what can you do about it?

Senator BYRD. It has not gotten across to the voters because, while the President can speak with one voice and he can command, with the snap of his fingers, all of the television channels, all of the radio networks and all of the print media, Congress speaks with 535 voices, and no person in Congress can command all of this vast communications network.

Additionally, half the members of Congress belong—those belonging to the minority party are, naturally, in a time of divided government going to side with the President when he takes issue with Congress, so you have half of Congress running against Congress, running Congress down, and making war on Congress.

The things we can do are possibly these: We ought to televise the debates in the Senate on a selective basis, and in the House. This would project the image to the American people of exactly what Congress is doing.

We should also pass strong financial disclosure laws and strong campaign reform legislation because these, in themselves, I think, would encourage greater confidence on the part of the people toward their representatives in Congress.

Congress has done a good job, the performance is there, but the record just hasn't gotten across to the people.

Mr. MEARS. Given the issues, why hasn't Congress been able to pass such strong campaign disclosures in the reform laws—

Senator BYRD. I think it will pass such legislation. The Senate passed such legislation last year. The Senate included strong financial disclosure legislation last year in the campaign reform bill, which is S. 372. That bill is now in the House of Representatives,

and the public climate being what it is, I would hope, and I would believe, that the House of Representatives would pass that legislation, or similar legislation, this year.

Mr. MONROE. Senator Byrd, isn't the Congress just spinning its wheels in sending to the White House, after long debate, an emergency energy bill which the President said in advance he would veto?

Senator BYRD. I would hope not. I don't know whether the votes are there to override a veto, but I think that the President is making a serious mistake in vetoing this legislation. He has been talking about inaction on the part of the Congress; he has talked about the need for legislation. The Congress now has passed legislation, has sent legislation to the President's desk. The ball is in the President's park and it is time for the President to act.

I don't know whether he wants legislation or whether he wants an issue, but the legislation is there and I think the President will make a serious mistake—I don't know how he will explain to the coal miners and to the factory workers and to the poor people who have to drive their cars in order to make a living, why they should have to pay from $2 to $3 or $4 more for a tank of gasoline than they used to have to pay. Which side is he on, Main Street or Wall Street?

Mr. MONROE. Senator, Senator Griffin, one of the Republican leaders, has objected that the bill sent to the White House was a sort of package "all of nothing" bill and so that the President, in order to veto one section that he strongly objects to, has got to veto all the other sections.

Why not break the bill down into separate components so the President doesn't have to veto gas rationing in order to veto the rollback on crude oil prices.

Senator BYRD. The breaking down of the bill into its various components would simply take more time. The President has pointed to one little section of the bill. This is a very important bill; not only does it provide a rollback in prices, but it also provides standby rationing authority for the President—and I oppose rationing except as a last resort just as the President does. There are many other things in this bill which the President hasn't told the American people about. For example, it provides unemployment compensation to those people who lose their jobs because of the energy crisis. It encourages carpools, it encourages planning for better public mass transportation; it provides low interest rate loans for homeowners and businesses that they might put storm windows into their homes and businesses, put new insulation and more efficient heating units in; it provides authority for the President to conserve energy so that it won't continue to be wasted. It also provides for accurate data gathering, and this is something that the Government at the present time is notoriously lacking in having and this would provide for such information so that the government could create feasible and workable energy policies. So there are all these various important things in the bill that I think that the people ought to know about.

Mr. MONROE. What about the President's objection to the rollback of crude oil prices? He says in the long run it might hold prices down on oil but it will result in lesser supplies of oil and gas and in longer lines at the gasoline stations.

Senator BYRD. Well, I think he is mistaken. May I say the bill also provides for increased production on the part of some of our domestic oil fields. Now the President talks about the rollback, but we have to look at this in the context of the fact that the oil companies have enjoyed the largest percentage of increase in profits in history. I am not talking about return on investments, but in the face of these inordinately large increases, percentagewise, in profits, I don't think the American people are going to buy this idea that there shouldn't be a rollback in prices.

Mr. GERMOND. I'd like to go back, Senator, to the question of the impact of Watergate on politics. Assuming that there is one, which of the Democratic Presidential possibilities is best positioned to take advantage of it?

Senator BYRD. Well, I am not going to get into the business of picking frontrunners today.

Mr. GERMOND. You don't feel that any candidate is either better—in a better, more advantageous position or less advantageous position to take advantage of Watergate?

Senator BYRD. I wouldn't say that. There may be some who would be in a more or a less advantageous position, but I am not going to get into any discussion of Democratic candidates two and a half years in advance of the Presidential election.

Mr. NEWMAN. Two minutes left.

Mr. MacNeil—

Mr. MACNEIL. Senator, there is a substantial pay raise for Congress pending before the Senate right now. Do you think Congress should get that pay raise?

Senator BYRD. I do not. Entirely aside from the merits of a Congressional salary increase, I think that of all times this would be the worst time for Congress to get a salary increase.

Mr. MACNEIL. Do you see any impropriety in the way this has been done, that the President has proposed the salary increase?

Senator BYRD. No, the President has——

Mr. MACNEIL. At a time when the Congress is really sitting as his juror?

Senator BYRD. No, the President has proposed these recommendations in accordance with the law, but I think that the recommendations are entirely out of order, and I think that the Congress would be making a serious mistake to approve the recommendations, especially at a time when we are asking everybody else to restrain his demands for wage increases.

Mr. MEARS. Senator, you mentioned being opposed to gasoline rationing except as a last resort. Didn't you vote for an amendment in the Senate in December to have Congress institute gasoline rationing?

Senator BYRD. I did that because, as many other Senators did, they wanted to send a message to the White House that it ought to seriously consider rationing.

Mr. MEARS. That was only a symbolic amendment, you don't feel that Congress would or should impose on its own motion gasoline rationing?

Senator BYRD. I think that the President is in the best position with all of the advice and information at his fingertips to determine when and if gasoline rationing should be imposed.

Mr. MEARS. Do you expect to be the next Democratic leader of the Senate?

Senator BYRD. I expect if the opening should occur—and I have no indication such an opening is about to occur—that I would certainly be a candidate for it.

Mr. MEARS. Do you feel that you have enough commitments, enough support so you could count on taking that job?

Senator BYRD. I am not seeking commitments. I would expect Senators to use their own best judgment and to determine their judgment on the basis of fairness and objectivity.

Mr. NEWMAN. Sorry to interrupt, our time is up.

Thank you, Senator Byrd, for being with us today on "Meet the Press."

RESOLUTION OF REMEMBRANCE

Mr. BEALL. Mr. President, in the 13 months since the cease-fire agreement took effect in Vietnam our Nation's military forces and our known prisoners of war have been returned from Southeast Asia. We have, however, not been completely successful in our efforts to account for the fate of American servicemen who were listed as missing in action, and 1,200 families across our Nation live with the constant agony of not knowing the true fate of one of their loved ones. In Maryland, 31 families continue to live with this burden even though most Americans are now seeking to place behind them the memories of the trauma of Vietnam.

The Maryland State Senate has recently passed a resolution of remembrance for those families and those men who have suffered in this conflict. I ask unanimous consent, Mr. President, that the text of Senate Resolution No. 20 be printed in the RECORD at the conclusion of my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION NO. 20

For the purpose of commemorating the first anniversary of the cease-fire in Viet Nam, January 27, 1973, and remembering with sympathy, the prisoners of war or listed as missing in action, paying tribute to these men through the Maryland Freedom Tree on the State House Grounds as a living memorial and by an annual resolution.

Whereas, It is important that Americans remember and pay tribute to their fellow countrymen who have fought and died in the long war in Southeast Asia with the hope that all men may someday live in peace; and

Whereas, More than 1200 Americans who were captured or listed as missing in action in Southeast Asia have not yet been returned or even accounted for; and

Whereas, Of 42 men with families in Maryland who were listed as prisoners or missing in action at the time of the cease-fire only 11 have returned, leaving 31 unaccounted for; and

Whereas, No information has been provided about these men; including 50 men previously listed as prisoners; the remains of 60 men said to have died in captivity and not yet returned to their families; and the 1200 men listed as missing in action about whom there is still no information; and

Whereas, These 1200 missing Americans account for more than two-thirds of those listed one year ago as prisoners or missing in action and little is being done by the United States government to determine the fate of these men and ease the years-long anguish of their families; now, therefore, be it

Resolved by the Senate of Maryland, That its members express their feelings of greatest sympathy for the more than 1200 families all across this country who continue to live with the incredible agony of not knowing where their husbands, sons and fathers are, and whether they are dead or alive; and be it further

Resolved, That the Senate of Maryland continue to pay tribute to these men through an annual resolution in the Senate and through the Maryland Freedom Tree, now growing on the State House lawn as a living memorial to all prisoners and missing in action; and be it further

Resolved, That copies of this Resolution be sent to Maryland Senators Charles Mathias and J. Glenn Beall; members of the Maryland delegation to the U.S. House of Representatives; the U.S. Secretaries of State and Defense; the U.S. Representative to the United Nations; the Maryland Chapter, National League of Families of American Prisoners of War and Missing in Southeast Asia;

the national office of VIVA (Voices in Vital America); Le Duc Tho of North Viet Nam; M. Phoumi Vongvichit of Laos; and Col. William W. Tombough, Chief of the U.S. Delegation to the Four Power Joint Military Team in Paris, and families of Maryland men who have been prisoners or who are missing in action in Southeast Asia.

RULES OF THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the rules of the Committee on Banking, Housing and Urban Affairs be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

(Adopted in executive session, Mar. 11, 1971)

RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2.—COMMITTEE

(a) *Investigations.*—No investigation shall be initiated by the Committee unless the Senate or the full Committee has specifically authorized such investigation.

(b) *Hearings.*—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman and the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(c) *Confidential testimony.*—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part by way of summary, unless specifically authorized by the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(d) *Interrogation of witnesses.*—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the ranking minority member of the Committee.

(e) *Prior notice of mark-up sessions.*—No session of the Committee or a subcommittee for marking up any measure shall be held unless (1) each member of the Committee or the subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session at least 48 hours prior to the commencement of such session, or (2) the Chairman of the Committee or subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

(f) *Prior notice of first degree amendments.*—It shall not be in order for the Committee or a subcommittee to consider any amendment in the first degree proposed to, and measure under construction by the Committee or subcommittee unless a written copy of such amendment has been delivered to each member of the Committee or subcommittee, as the case may be, and to the office of the Committee at least 24 hours before the meeting of the Committee or subcommittee at which the amendment is to be proposed. This subsection may be waived by a majority of the members of the Committee or subcommittee voting. This subsection shall apply only when at least 48 hours written notice of a session to mark up a measure is required to be given under subsection (e) of this rule.

(g) *Cordon Rule.*—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the committee or subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or subcommittee chairman, it is necessary to expedite the business of the Committee or subcommittee.

RULE 3.—SUBCOMMITTEES

(a) *Authorization for.*—A subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

(b) *Membership.*—Membership to subcommittees shall be by nomination of the Chairman and the ranking minority member of the Committee and shall be approved by the majority vote of the Committee.

(c) *Investigations.*—No investigation shall be initiated by a subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

(d) *Hearings.*—No hearing of a subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the ranking minority member of the Subcommittee or by a majority vote of the Committee.

(e) *Confidential testimony.*—No confidential testimony taken or confidential material presented at an executive session of the subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the ranking minority member of the Subcommittee or by a majority vote of the Subcommittee.

(f) *Interrogation of witnesses.*—Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the ranking minority member of the Subcommittee.

(g) *Special meetings.*—If at least three members of a subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular, additional, or special meeting of the Subcommittee, the ranking member of the majority party on the Subcommittee who is present shall preside at that meeting.

(h) *Voting.*—No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee are actually present. Any absent member of a Subcommittee may affirmatively request that his vote to recommend a measure or matter to the Committee or his vote on any such other matter on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4.—WITNESSES

(a) *Filing of statements.*—Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee (before noon, 48 hours preceding his appearance) 75 copies of his statement to the Committee or Subcommittee. In the event that the witness fails to file a written statement in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

(b) *Length of statements.*—Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his views to the Committee or Subcommittee. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

(c) *Fifteen-minute duration.*—Oral statements of witnesses shall be based upon their filed statements but shall be limited to 15 minutes duration. This period may be extended at the discretion of the Chairman presiding at the hearings.

(d) *Subpoena of witnesses.*—Witnesses may be subpoenaed by the Chairman of the Committee or a subcommittee with the agreement of the ranking minority member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

(e) *Counsel permitted.*—Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(f) *Expenses of witnesses.*—No witness shall be reimbursed for his appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and ranking minority member of the Committee or by a majority vote of the Committee.

(g) *Limits of questions.*—Questioning of a witness by members shall be limited to 10 minutes duration, except that if a member is unable to finish his questioning in the 10-minute period, he may be permitted fur-

ther questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 10 minutes until all members have been given the opportunity of questioning the witness for a second time. This 10-minute time period per member will be continued until all members have exhausted their questions of the witness.

RULE 5.—VOTING

(a) *Vote to report a measure or matter.*—No measure or matter shall be reported from the Committee unless a majority of the Committee are actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the roll vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) *Vote on matters other than a report on a measure or matter.*—On Committee matters other than the vote to report a measure or matter, a member of the Committee may request that his vote may be cast by proxy.

(c) *Vote to report a measure or matter.*—No measure or matter shall be reported from the Committee unless a majority of the Committee are actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his vote to report a measure or matter be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(d) *Vote on matters other than a report on a measure or matter.*—On Committee matters, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of a Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DIAS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him during such public or executive hearing on the dais. If a member desires a second staff person to accompany him on the dais he must make a request to the Chairman for that purpose.

RULE 8.—PUBLIC ATTENDANCE AT MEETINGS

Except in the case of the conduct of hearings (which are provided for in section 112 (a) of the Legislative Reorganization Act of 1970), or in the case of any meeting (other than a hearing) to consider the nomination of an individual submitted by the President to the Senate for its advice and consent, all meetings for the transaction of business, including sessions for marking up bills and resolutions, of the Committee and subcommittees thereof shall be open to the public unless the Committee or subcommittee (as the case may be) in open session and with a quorum present, by majority vote conducted by rollcall, determines that all or part of the remainder of the meeting on that day shall be closed to the public. In the case of any such meeting with respect to a nomination, the Committee or subcommittee in executive session may, with a quorum present and by majority vote conducted by rollcall, determine that the meeting for that day shall be open to the public.

NO WHEAT SHORTAGE

Mr. YOUNG. Mr. President, recently Al Gustin, farm editor of the Meyer Broadcasting Co. at Bismarck, N. Dak., produced an editorial feature on KFYR radio and television stations which did an exceptionally good job of refuting widespread and erroneous claims that we have a shortage of wheat in this country.

This editorial feature, titled "Insight," goes a long way toward putting this whole controversy into the right perspective.

Mr. President, as I have stated any number of times, the alarmist reports, principally by the baking industry, that we could have bread selling at a dollar a loaf just have no substance. The Russian wheat sales were responsible for a very substantial increase in wheat prices and a dramatic reduction in our wheat surpluses, which have had the tendency of holding down farm prices for almost as long as I can remember. I am confident that our present stocks of wheat stored on farms, along with new crop wheat which will start coming to market from Southern States within a period of about 2 months, will be more than adequate to fulfill our export sales commitments and take care of all of our domestic needs.

Mr. President, I ask unanimous consent that Mr. Gustin's editorial feature be printed in the RECORD as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

(By Al Gustin)

I think its time we stop the irrational talk about wheat supplies, wheat prices, bread prices, and bread shortages . . . time we start doing something—if, in fact, anything needs to be done.

A rally was held in Washington yesterday, sponsored by the American Bakers Association, which wants export controls on wheat. The bakers say we are running out of wheat, and, as a result, there will be $1-a-loaf bread . . . and, eventually, bread shortages. This is not a new thing for the bakers. They made the same charge about a month ago.

Parenthetically, it could be noted that since then, the chairman of the American Bakers Association, Bill Mead, sent a statement to the stockholders of his own company. In that statement, Mead said they shouldn't worry because management had anticipated the present situation and had purchased all the wheat they will need.

In other words, while Mead is telling the public about bread shortages, he is telling his own people that the situation is well in hand. If one wanted to carry this situation a little further, it could be surmised that the bakers, by buying all that wheat earlier, were panic buying, intensifying the supposed shortage, and pushing prices higher.

Anyway, the bakers are demanding export controls. The basis for their argument is detailed in a statement sent to farm writers and farm broadcasters this week. In it, they outline the wheat supply and demand situation, indicating a wheat shortage of almost 1-billion bushels by July first. They arrived at that figure by using the highest possible wheat export figure. And since there will be a shortage, they say, exports of wheat should be stopped.

Most vocal of those on the opposite side of this argument is Agriculture Secretary, Earl Butz, who wants no part of export controls. USDA says there will be a carry-over of almost 80-million bushels on July first—slim, but sufficient. That figure is arrived at by using the smallest possible wheat export figure. So we have a disparity here—a difference of opinion—that has resulted in a lot of talk but no action.

The truth of the matter is that neither of those two carry-over figures is correct. Because there will be as much as 300-million bushels of new crop wheat on the market by the first of July. The bakers know that, but they won't admit it. To do so would negate their contention of a wheat shortage. Then they would have no argument to use in their fight for wheat surpluses and depressed prices, so profitable to them.

The July first figure is a statistical leftover which has little relationship to wheat supplies. July first is the traditional beginning of the new crop year. But the wheat harvest begins down south in mid-May. So, what we need is a statistical crop year that coincides with the actual cropping pattern. Senator Milton Young has introduced a bill to do that to some degree by changing the crop year beginning to June first. The agriculture department says it has the power to change the statistical crop year without a congressional mandate. And a USDA spokesman acknowledges such a change should have been been made long ago. The question is . . . why wasn't it? If USDA really believes what it is saying, perhaps they should quit arguing with the bakers and do something to make their figures accurate enough for all of us to understand. And the bakers would do well to tell the truth too.

BATON ROUGE HONORS DOUGLAS MANSHIP, SR.

Mr. LONG. Mr. President, a few days ago on February 14, 1974, the Baton Rouge Chapter of the National Conference of Christians and Jews sponsored its 12th award dinner in honor of Douglas Manship, Sr. This award is presented to an outstanding person whose efforts have resulted in a greater realization of the spirit of true brotherhood.

Doug Manship is the publisher of the Baton Rouge Morning Advocate and

State-Times and owner of a television and radio station in my hometown, Baton Rouge. I have known Doug for many years and he and his lovely wife are good friends of mine.

When he was presented with the 1974 Brotherhood Award plaque, his many contributions to his community were cited. I would like to mention just a few. In addition to his successful career in the media, he has devoted many years to the betterment of race relations, progress in prison reform, and aid in the development of the Goodfellows-Good Samaritan program for children in the area.

Upon receipt of this award, Doug said that:

We must be able to put aside our desire to use every opportunity that comes along to our selfish advantage. Sometimes the rights of others are equal to our personal goals.

Mr. President, Doug has devoted much of his life to the rights of others and he is much deserving of this honor.

I ask unanimous consent to print in the RECORD Doug Manship's address:

There being no objection, the address was ordered to be printed in the RECORD, as follows:

DOUG MANSHIP'S ADDRESS

Not many people in their lifetime have the opportunity that is mine tonight. That is the opportunity to express in a few words my feelings on brotherhood—at least to me an important aspect of brotherhood—how man might regard his fellowman. But first I must thank all of you—everyone of you—for the honor that you are bestowing on me tonight. I am deeply honored.

Certainly, if I believe in my fellowman, I must say what is on my mind and what is on my mind can be expressed very simply.

We, you and I—all of us—individually and collectively must regain our ability to be outraged at our fellowman. To be shocked when we are rudely or harmfully treated. When we are deliberately defrauded by our fellowman either in the private or social sectors of our lives in our business dealings and most importantly perhaps—in our civic life with one another. We must again believe in and understand genuine outrage, not outrage in order to gain a superior position in a personal relationship or to gain a tactical advantage because of some wrong that an honest apology would right. But outrage when private rights or civil responsibility are callously ignored. We must be able to be outraged when those in offices of public trust take advantage of that trust in order to curry the favor of a few—or to perpetrate themselves in office. We must again begin to express our outrages when those in public or private office use their position to wreck private lives or business careers, or for improper or illegal financial gain.

We must have the courage to stand up and say to that outraged official you can count on me to stand alongside of you while you straighten out this humiliation that has been showered on all of us. For if we fail to rally to any public official's side who is ready to fight for justice who can blame him for not responding the next time if you and I have shown by indifference that we don't care.

We must be able to put aside our desire to use every opportunity that comes along to our selfish advantage. Sometimes the rights of others are equal to our personal goals.

I would suggest that it would be wise to be able to turn our outrage on our own selves whenever we act in disregard of brotherhood. And I would suggest that there is not one person in this room tonight who does not know in their innermost being everytime they should be outraged at themselves. Brotherhood will stop the student assaulting the teacher, or the parent assaulting the teacher or the exclusion of anyone from any opportunity to learn and better themselves without regard for race, creed or color.

Sadly nearly everyone of us violates some fellow human being's dignity from time to time. Couldn't each of us try to practice brotherhood combined with honest outrage a little bit more tomorrow than we did today, and if we didn't practice it today, just why didn't we?

There is a timeless heritage of Christian and Jew alike—for we all acknowledge the same universal spirit—that says respect your fellowman—or as youth puts it so well today—Don't rip him off. How true—Don't rip him off. But if we are ripped off by our neighbor or our grocer, or our judges, or our children, or our political leaders we should be properly outraged and do something about it. And when we do something about it, well then and only then will we begin to have or experience what tonight is all about—brotherhood. The concern for the well being of our fellow human.

All my life I have enjoyed reading—newspapers, magazines, big books, little books, profound books, junky books and just books—even—instructions on cereal boxes and on labels of any kind, in short I like to read—period!

A long, long time ago while reading an article otherwise long since forgotten I ran across a statement that has always stayed with me. I don't know the article's title and its source is really not important. But the statement is important and if some of you will carry this statement out of here tonight in your hearts and remember it tomorrow—well, all of the effort that you have made to be here tonight will have been worthwhile. Here is the statement and listen closely.

Someday when we have mastered the winds, the waves, the tides and gravity we will harness for God the energies of brotherhood and love. And then for the second time man will have discovered fire.

THE OIL EMBARGO

Mr. DOMENICI. Mr. President, I am encouraged by the news that Ahmed Zaki Yamani, Oil Minister of Saudi Arabia, has stated that the Arab oil embargo of the United States "had served its purpose and should be lifted."

I am hopeful that this attitude will prevail among the other Arab oil-producing nations and lead quickly to the termination of the embargo. The benefits to the American consumer and our economy which will result from the lifting of this embargo are substantial and I need elaborate. We need the petroleum and we need it badly. Recognition of these facts caused the Dow-Jones average to shoot up 19 points yesterday just on the strength of Yamani's statement.

This is good news, the best we have had in some time, and I am hopeful it materializes. I want to add a word of caution, however. Our optimism at this point and our relief if the embargo should be ended must not be allowed to detract from our national effort to achieve true energy independence. The same ease with which the embargo was implemented and with which it can be lifted warn us that at any time, for any reason, history can repeat itself and the United States could find itself again in a bind—perhaps one worse than now. So, in the face of optimism and hope, which I share, I still say of operation independence, "full speed ahead." We must never get behind the eight-ball of another embargo of oil or any other commodity we need.

Wisdom dictates this course and it must not be diluted by wishful hoping that this all cannot happen again.

I would add one further point. I hope that the oil-exporting nations will soon reduce their present prices of $11 to $13 a barrel for oil. This price will have profound economic effect on many nations. We in this country may have an economy and petroleum production that will enable us to withstand, if necessary, such a price. However, other developed nations face severe economic curtailments if this price is not lowered. In addition, many of the less-developed countries could face economic disaster. The present price of this oil is simply too high.

DÉTENTE

Mr. THURMOND. Mr. President, a column on détente appeared in the February 28, 1974, issue of the Aiken Standard newspaper in Aiken, S.C.

The column, entitled, "Just How Far Has Our Government Decided To Crawl in Pursuit of Détente?" raises some questions we all should consider.

It appears to me that détente is serving the interests of the Soviets far better than our own. The record is replete with such examples as the grain deal, strategic parity, and trade of U.S. technology.

Mr. President, this column was written by John D. Lofton, Jr., and I request unanimous consent that it be printed in the RECORD following these remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUST HOW FAR HAS OUR GOVERNMENT DECIDED TO CRAWL IN PURSUIT OF DÉTENTE?

(By John D. Lofton Jr.)

Just how far our government has decided to crawl in its obsequious pursuit of détente with Russia is starkly illustrated by the shocking fact that nearly two months after the New York Times ran 10,000 words from exiled author Aleksandr Solzhenitsyn's latest book, no substantial quotations from "The Gulag Archipelago" have yet been broadcast by this country's official radio—the Voice of America.

As a matter of fact, a V.O.A. proposal to run significant excerpts from this scorching volume about Soviet mass police terror were turned down by James Keough, director of the United States Information Agency. The V.O.A. is a part of the U.S.I.A.

As I have been able to piece it together from authoritative sources within USIA, events there have transpired as follows:

When the Times broke the story of the new Solzhenitsyn book late last December, the "frantic view" from the USIA was passed to the VOA that excerpts from the book should not be read on the air. This was accepted. But as soon as the Agency received its own copy of the book, the official VOA proposal to the USIA was that as many as a dozen 10-15 minute excerpts from the book should be broadcast and commented on. It was suggested that the series be kicked off by quoting the passage from "Gulag" where Solzhenitsyn describes his own arrest by the Soviet secret police. This proposal was turned down by Keough. One source, who says he's been "yelling and squalling' about this thing

for weeks, tells me his principal complaint is not that there hasn't been enough news reporting by the VOA on the book. What angers him is that "we're not been allowed to deal with the substance of the book. There have been no significant portions of this book read on the air." Unable to reach Keough because he was travelling, I did talk with Mrs. Margita White, head of public affairs for USIA. Arguing strongly that the Solzhenitsyn book has been adequately covered by the VOA in its news stories, she did admit that substantial excerpts were not being broadcast. She had heard this idea was "turned down," she said, noting that this would be a general policy question, the kind Keough would ultimately decide.

Incredibly, Mrs. White explained that as regards the Solzhenitsyn book "we're not treating this story any differently than others. Nowhere is there a mandate that substantial excerpts of it must be read," she said.

When I asked her where Keough got his orders, she said he is responsible "only to the President" but is in close touch with the State Department and the National Security Council. Both are headed by Dr. Henry Kissinger.

Former USIA director Frank Shakespeare strongly disagrees with present USIA treatment of Solzhenitsyn and his book. Because of the great substance and symbolism of the entire subject, he told me, the popularity and credibility of the Voice of America are at stake. "The purpose of the VOA is to be a link with the Soviet people not to send messages to the men in the Kremlin," he declared. Since the Voice is the "preeminent voice of the West" in the USSR, he said, Solzhenitsyn and his book should be given "a whole array of the most extensive coverage: excerpts; significant references; commentary; background pieces; and a general setting of a frame of reference." When Soviet listeners hear excerpts of the book on the BBC West German Radio and Radio Liberty but not the VOA, they will construe this muted coverage as evidence that the U.S. is willing to do anything for detent, Shakespeare believes. It will also make listeners wonder if things heard in the past have been watered down, he says.

FOOD STAMP REGULATIONS FOR PUERTO RICO

Mr. KENNEDY. Mr. President, I would like to bring to the attention of this Senate, the recent announcement by the Department of Agriculture concerning food stamp regulations for Puerto Ricans.

The Department of Agriculture has seen fit to issue regulations which, in direct contravention of Federal law, will deny the benefits of the food stamp program to thousands of impoverished Puerto Rican residents and substantially diminish the benefits of all the remaining families on the island who are not denied eligibility. This undue treatment of Puerto Rican Americans as second-class citizens cannot be ignored by the Members of this Congress.

According to last week"s announcement USDA will only provide $122 to a four-person Puerto Rican family instead of the $142 that it provides to a similar mainland family.

Although these illegally low coupon allotments for Puerto Rico are bad, in and of themselves, the method by which the Agriculture Department calculated these figures is equally wrong. The underlying and wrongful principle that the USDA used is that the relative poverty of the Commonwealth, in relation to the 50 States, should be used as the basis for establishing lower benefit levels in Puerto Rico. USDA apparently felt that people in Puerto Rico have cheaper food consumption patterns than people in the United States and, therefore, are in need of less food benefits than people in the 50 States. Although it is axiomatic that people in poorer communities have cheaper food consumption patterns than people in more affluent areas, the food stamp program was designed to help people to enrich their diets rather than follow cheaper nutritional shortcuts due to poverty. Therefore, to base the discriminatory low coupon allotments on the fact that Puerto Ricans eat cheaper foods is completely inconsistent with the purposes of the food stamp program and in direct violation of our legislation.

It is obvious that USDA policies in this respect are contrary to our legislation and purposes. Instead of basing coupon allotments on a comparative dietary consumption basis with the 50 States, we required coupon allotments to be based on comparative food prices between Puerto Rico and the 50 States. Since the statutory standard for coupon allotments, in both the 50 States and Puerto Rico, is the "cost of obtaining a nutritionally adequate diet," any difference in allotments had to reflect different food prices. In this legislative formulation, we did not say that the 50 States should receive a "nutritionally adequate diet" while Puerto Ricans receive a "less nutritionally adequate diet" based on their previous undernourished food patterns. Since food prices, therefore, are the relevant factor, and since food costs more in Puerto Rico, it was unlawful for the U.S. Secretary of Agriculture to establish lower coupon allotments for island residents.

Similarly wrong are the reduced income-eligibility schedules that the Secretary has decided to issue, contrary to the plain meaning of the Food Stamp Act. The schedules, as announced earlier this week, are some 13 to 14 percent lower than those that prevail on the mainland—despite the fact that Puerto Rican families who would be excluded under the Secretary's scheme are in dire need of food assistance. It is quite clear that the Secretary must use the formula contained in the statute and multiply the per capita income for the island by family size to determine income-eligibility for each family.

I urge the Secretary to withdraw these discriminatory schedules and to issue schedules which will enable the impoverished people of Puerto Rico to fully and equally participate in the food stamp program in a manner that is commensurate with congressional design.

THE MINERAL CRISIS

Mr. STEVENS. Mr. President, today I would like to place in the CONGRESSIONAL RECORD two articles regarding a new crisis. This crisis has already arrived and concerns America's dependence upon foreign sources for the minerals it needs to keep the country running. Mr. President, there are two bills currently in the Senate Interior and Insular Affairs Committee, S. 2917 and S. 2918, which would designate large areas of Alaska as part of the national park, forest, wildlife, or wild and scenic rivers systems. Over 60 million acres of this redesignation would be for single-use purposes. I think that it is essential that the Congress knows exactly what it is committing to single-use purposes in Alaska before any land is so designated under either of these proposals.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 26, 1973]

WHAT NEXT? AMERICA'S DEPENDENCE ON IMPORTED METAL SEEN LEADING TO NEW CRISIS

(By Richard J. Levine)

WASHINGTON.—After the energy crisis could come a metal crisis.

That grim possibility is beginning to haunt officials here as the Arab oil embargo stirs new fears about the nation's growing dependence on foreign supplies of many crucial mineral ores.

At this point, the concern is centered among middle-echelon bureaucrats, private economists and industry executives. But it is starting to spread to the ranks of government policymakers, reaching in recent days the offices of Interior Secretary Rogers Morton, Federal Reserve Board Chairman Arthur Burns and energy czar William Simon.

What worries these men is the possibility that the Arab oil embargo may give dangerous ideas to the less-developed countries in Africa, Asia and Latin America that supply the U.S. with minerals. They are concerned that these so-called third-world nations—viewing the Arabs' use of oil to force Israel withdrawal from occupied lands—may decide to use their mineral wealth not to achieve political ends bus to jack up their economic positions. The results could be skyrocketing prices and dwindling supplies on world markets.

"Recent events are very disturbing," says Mr. Burns. "What happened in oil could happen" in copper and other raw materials, he adds. Mr. Morton suggests that, unless protective steps are taken, such as maintaining stockpiles, the U.S. could face a "minerals crisis and a materials crisis." There is "no reason why the group of countries that supply most of our bauxite (the ore from which aluminum is produced) can't get together the way the (oil-producing) countries got together on the price of oil," he says. Jamaica and Surinam are the original source of about two-thirds of the aluminum used in the U.S., with Canada and Australia also major producers.

INCREASING RELIANCE ON IMPORTS

Perhaps the man most responsible for spreading the word about the metals-dependence problem has been C. Fred Bergsten, an international-economics expert at the Brookings Institution who formerly worked for Henry Kissinger on the National Security Council staff. Mr. Bergsten outlined the problem in an article last summer in Foreign Policy magazine entitled, "The Threat From the Third World." It drew little attention at the time, but then came the oil embargo. Recently, Mr. Bergsten has been busy updating his ideas before congressional committees.

"While the oil situation itself must be the focus of policy attention at the moment, we must recognize its far broader implications for the longer run," he says. "Perhaps the broadest lesson to be learned . . . is that countries will adopt extreme, even wholly irrational, policies when frustrated repeatedly in achieving their most cherished aspirations."

Underlying the concern of Mr. Bergsten and others are some harsh facts about the ever-increasing reliance of the U.S. on foreign metals since it became a net importer in the 1920s.

According to the Interior Department, the U.S. already depends on imports for more than half its supply of six of 13 basic new materials required by an industrialized society (aluminum, chromium, manganese, nickel, tin and zinc). By 1985, the country will also depend on imports for more than half its iron, lead and tungsten. And by the year 2000, its imports will have to supply more than half its copper, potassium and sulphur. The 13th material is phosphorus, which is so abundant in the U.S. that imports even in the year 2000 are expected to be negligible.)

INCREASING DEPENDENCE

Viewed another way, the projections suggest the U.S. may have to import $18 billion of metals a year by 1985 and $44 billion by the turn of the century, up from only $5 billion in 1970. "What kind of an economy can stand that kind of pressure on its balance of payments?" asks an Interior Department planner.

At the department's Bureau of Mines, Paul Zinner, assistant director for planning, says the bureau has seen the metals problem coming for 20 years but has been unable to generate much high-level interest. "Since 1953, we've been saying annually we've got to do something about it. But nothing's happened because there's been no crisis. When you find you can't buy an auto because industry can't get materials, you'll get concerned."

As that concern builds, it is likely to be accompanied by the realization that the increasing dependence on overseas metals supplies must dictate changes in American foreign policy. Most obviously, in the view of some analysts, it will force Washington to lavish more attention and money on the less developed nations than in the past. "When we awaken to an oil crisis," says Mr. Bergsten, "we realize how vital to us are Nigeria, Indonesia, and Ecuador"—countries that have crude for sale.

In recent years, Washington's foreign-policy machinery, under the tight direction of Henry Kissinger, has concentrated on building relations among the big powers—the Soviet Union, China, Japan, the allies in Western Europe. The result has been a slighting of the developing areas of the world, which hold the resources the U.S. will increasingly need. "Our policy institutions aren't adapted to these newly emerging economic realities," says Federal Reserve Chairman Burns.

Many experts believe the U.S. metals-dependence problem will be reflected in rising prices, rather than in a cutoff of supplies. "You wouldn't suddenly find yourself without copper, for example, but you could find the price so high you couldn't afford it," Mr. Zinner says.

Increasing world-wide demand for metals presents suppliers with an opportunity to raise prices, and the oil crisis demonstrates how quickly suppliers can move. Immediately after Iran auctioned crude oil for as much as $17.34 a barrel, Indonesia, Bolivia and Ecuador announced they intended to raise prices, too. "We can't close our eyes to the prices of oil in the last few months," declared Indonesia's minister of mining, Mohammad Sadli.

Earlier this week, six Persian Gulf oil producing countries more than doubled their posted price for crude oil to $11.651 a barrel from $5.11, effective Jan. 1, and more increases may be forthcoming.

THE ALUMINUM OUTLOOK

Predicting how or where a metals crisis might erupt is difficult. John Morgan, acting director of the Bureau of Mines, says only that the U.S. could find itself in trouble in "any one" of the metals it imports heavily.

Right now, the aluminum situation appears particularly threatening. Among the danger signs: reports that the leading bauxite-producing countries plan to meet early next year to discuss establishment of a producer organization similar to the Organization of Petroleum Exporting Countries, or OPEC.

In addition to OPEC, which has shown its muscle in raising oil prices, there is the Intergovernmental Council of Copper Exporting Countries (Chile, Peru, Zambia and Zaire) and the International Tin Council (producing members are Malaysia, Bolivia, Indonesia, Nigeria, Zaire and Australia).

In the long run, some government experts predict, one critical supply problem may be in uranium. "The world resources that are known, assuming that we have access to them, just aren't adequate," an Interior Department analyst says.

UNITED STATES RICH IN RESOURCES

Still, the situation isn't entirely bleak. For one thing, the U.S. remains rich in natural resources. In many instances, American industry has turned to foreign metal supplies because they have been cheaper than remaining domestic supplies.

For example, the U.S. has aluminum-bearing ore in Georgia and Alabama. But methods haven't yet been developed so these low-grade resources can be used economically. The U.S. also possesses much low-grade iron ore.

Some experts also question whether poor countries, lacking the unifying political cause of the Arabs, could actually get together to raise prices and control supplies. The major copper-exporting countries, says a Washington expert, "aren't geographically cohesive." However, such arguments are rejected by Brookings' Mr. Bergsten, who believes that joint action is more likely in some raw materials than it was in oil.

In any case, U.S. officials are talking about ways to conserve metals in the future as well as to increase U.S. production. Some officials, such as Interior Department Chief Morton, also believe it's time to take another look at the administration policy, established last spring in the hopes of lowering metal prices, of disposing of most of the government's huge strategic-materials stockpile.

"What the stockpile has provided," an Interior Department planner says, "is tremendous bargaining power for this country in the international sphere. With it, you don't let these bandits hold you up."

REAL SHORTAGE MAY BE MINERALS

(By John Kuglin)

SPOKANE, WASH.—The nation faces a shortage of minerals more serious than the current energy crisis, federal and mining industry officials have warned.

Assistant Interior Secretary John Kyl and representatives of Consolidation Coal Co. and the American Mining Congress told 1,000 members attending the Northwest Mining Association's convention that environmental controls must be eased and other governmental regulations modified to increase mineral production.

Kyl, a former six-term congressman from Iowa, said power production could be boosted by increased strip mining of coal. Kyl said surface mining was safer for coal miners than underground mining but some environmentalists "get to the point where they are more concerned about a tree than a person."

An amendment to the coal surface mining reclamation bill passed by the Senate will be "disastrous" to plans to meet the energy crisis, the former congressman said. Kyl said the amendment, authorized by Senate Majority Leader Mike Mansfield, D-Mont., would prevent mining of 63 percent of the usable federal coal reserves.

The amendment prohibits surface mining on privately-owned land under which the federal government owns the subsurface mineral rights. The House has yet to pass its version of coal surface mining reclamation legislation.

The Nixon administration is "very much opposed" to the amendment, Kyl said.

Kyl predicted "within five to 10 years this country will have a materials' crisis which will make this energy shortage look like a Sunday school picnic" unless mineral production is greatly expanded. He predicted shale oil in the West will not be developed without federal price guarantees.

J. Allen Overton Jr., Washington D.C., president of the American Mining Congress, said the nation imported $10 billion in minerals in 1972, and a $100 billion deficit between domestic supply and domestic demand is projected for the year 2000.

Overton said land use land planners should recognize "the unique nature of land used for mineral development" because mining can occur only where minerals exist.

William Poundstone, Pittsburg, Pa., a Consolidation Coal Co. vice president, said strip mining reclamation laws, air pollution standards and provisions of the Coal Mine Health and Safety Act which are not essential to health and safety must be eased to meet the nation's coal needs.

Poundstone said "the choice is clear. We will opt for conservation relaxation of environmental standards though neither is attractive to the American public."

The convention is scheduled to end Saturday with briefings on mined land reclamation and Washington's geothermal potential and a speech by Rep. John Melcher, D-Mont.

INDIAN HOUSING—A NATIONAL DISGRACE

Mr. DOMENICI. Mr. President, for many years I have supported most strongly the many programs of the Federal Government which have as their aim at least a partial solution of the Nation's housing problems.

My motivation for that support, as I examine it, is not some lofty philosophical or economic theory; it is simply the homely realization that every man or woman wants, from a deepseated, fundamental hunger, to provide for his or her family the best shelter, the most truly homelike home, it is possible to provide.

I consider that desire to be universal—hence natural to all our citizens.

And I believe no citizen should be neglected when our Government undertakes to provide some benign assistance in filling it.

Yet I find, in the long history of our efforts in this regard, that the special needs of one group of our citizens has been consistently ignored, or at best, only half served.

I refer to our Indian people.

I have asked this body, in a previous speech before it, this simple question: Can the workings of Government which apply to non-Indians be made to fit the diversity of tribes, nations, and pueblos, or do they need special application to these special people?

I ask that question again today—and I will give you my answer, if I may, by saying I believe, and my many Indian friends believe, that they need and require special consideration under the law.

Housing is one preeminent example.

The average American citizen, if he desires to build a home, for example, can, if his income is adequate, deal with a financial institution, mortgaging the home and the land on which he builds it to obtain the funds for its construction.

Can you imagine the consternation in a bank or savings and loan association when an Indian citizen seeks a loan and says, "I do not own the land on which I plan to build; it is held communally by my tribe. If it becomes necessary for you to seek recourse against me, you can reclaim the house but not the land on which it is constructed"?

That is precisely the situation in which most families who live on reservations find themselves, because of the organization of ownership within their tribes and because of the nature of the trust relationship between themselves and our Government.

Yet this same Government, which initiated and maintains this trust relationship, so often forgets these special people when it legislates for all its citizens.

Let me give you another example—one which we in the Southwest find almost grimly humorous.

For centuries we have used as building material what we call adobe—a simple Sun-baked brick, made of our caliche soil and a little straw. It is a humble material, perhaps, but it has served us well; some of you may know the pueblo at Taos or the church at Acoma which are built of adobe and have stood for more than 300 years.

Now, in the 20th century, it appears that adobe does not fulfill the requirements of HUD as a building material, partly because no one has ever done the scientific factgathering to demonstrate that it offers sufficient insulating properties. No one has ever done that, because we know from experience—perhaps the most ultimate scientific proof—that adobe insulates well.

Yet HUD says, "where are your facts, your studies, your proofs?" And HUD is uncomfortable when we can only point to existing buildings and answer, "There."

In this case, with the assistance of my staff, the Pueblo peoples were finally able to convince the Federal Government that their own wisdom was just that—that adobe homes, which have served them for centuries, did not need the 4 inches of asbestos insulation which were required in a split-level, Cape Cod-type home.

You can imagine the frustration which results—and the interminable delays—while Indians try to demonstrate to the Federal Government that they may in fact know what is best for themselves.

For the simple fact is that almost all our legislation is designed, not so much to intentionally exclude our Indian citizens as with a total insensitivity, but with a forgetfulness of their unique but very real needs.

So I rise, to remind our Members once again that our duty requires special consideration of these special people. What applies—in housing legislation, as in many other areas—to the problems of the innercity or the suburbs may not apply in the area between the Navajos' four sacred mountains or in the hills and prairies of the Rosebud.

Yet it is to Indians, in a different manner than to our other citizens, that we have a special obligation—one written into the numberless treaties we have made, and not always honored.

It is time for us to begin reclaiming the past, since we cannot change it, by giving our Indian tribes, nations, and pueblos the special consideration they have for so long been too patient to demand.

So, Mr. President, I am extremely disappointed in the lack of recognition of Indian housing problems I find in relevant housing legislation now in the Senate. My review of these measures discloses no new thrusts of sufficient magnitude or impact to adequately address the plight of our Indians existing in substandard housing.

May I, Mr. President, take this opportunity to implore my colleagues to be receptive to legislative initiatives which will be generated by the lack of relief pending housing legislation would provide for Indian people. We simply cannot continue to refuse to deal with this shameful national disgrace or pretend that it does not exist or may go away. In the coming days I will join other concerned Senators in an effort to achieve equity in housing for Indian people by more directly responding to their unique circumstances.

DEATH OF PERCY HEBERT, SHERIFF OF ST. JOHN THE BAPTIST PARISH, LaPLACE, LA.

Mr. LONG. Mr. President, I would like to express my deep sense of loss at the recent death of Percy D. Hebert, of LaPlace, La.

Sheriff Hebert was serving his ninth consecutive term as sheriff of St. John the Baptist Parish, making him Louisiana's senior sheriff in point of service. He served my State with dignity and honor since joining the Louisiana State Police Force in 1934.

Sheriff Hebert set an example for diligence, hard work and vitality. His sense of duty to his office is an example to all who have known him.

Sheriff Hebert devoted his life to serving Louisiana and his death is a loss not only to those who knew him personally, but to all citizens of Louisiana.

Sheriff Hebert was born at Lions in St. John the Baptist Parish on July 13, 1907. He graduated from the Leon Godchaux High School in Reserve in 1926.

His first job was as a heavy equipment operator for a construction company. He then worked at the Godchaux Sugar Refinery in Reserve and in 1927 and 1928 was an assistant chemist at a sugar refinery in Cuba.

He joined the Louisiana State Police Force in 1934 and served there until he resigned to run for sheriff in 1940. He became sheriff August 3, 1941, the youngest man ever elected to office in his parish. He had been reelected every 4 years since then.

Sheriff Hebert attended the Louisiana State Police Academy and the basic training academy at LSU in Baton Rouge.

During his 32 years of distinguished service, he received numerous awards and citations. He will be most remembered, however, for his compassion and integrity.

Among the hundreds of floral offerings sent in his memory was one from the inmates of the parish jail in LaPlace. The money for this tribute was raised by the inmates pooling their cigarette and stamp funds. The card attached contained this note:

"To a man who we all thought the world of, and may God remain with him and in him forever."

Mr. President, the news story about Sheriff Hebert's initial election victory in 1941 finished with the statement that he promised good clean government and friendship to all. I can attest that he did both, and I believe the floral wreath from the prisoners in the parish jail give evidence that he also performed his duties with sensitivity. Mr. President, Mrs. Long joins with me in extending our deepest sympathies to Sheriff Hebert's widow and daughter in their time of loss.

Mr. President, I ask unanimous consent to print in the RECORD an editorial from Sheriff Hebert's hometown paper, L'Observateur. Joseph A. Lucia, the editor and publisher, knew him for many years and I believe this editorial captures the essence of the man.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SHERIFF P. D. HEBERT

In the death of Sheriff Percy D. Hebert, St. John the Baptist Parish has lost one of its most colorful figures and countless parish residents, especially the poor and downtrodden, have lost a true and loyal friend.

We are not going to try to tell you Sheriff Hebert was without fault—few, if any, mortals are—but his good qualities and good deeds far outnumbered any of his deficiencies. He dedicated his life to law enforcement—his ambition always was to be sheriff—and in that capacity he was an outstanding success. He constantly strived to upgrade his office within the limits of his budget and it is no secret that he had succeeded in assembling a staff as good as any in the state.

As a full time staff reporter since 1937 for one of the largest metropolitan daily newspapers in the nation, we have spent most of our lifetime with police officers, sheriffs and their deputies. We never cease to be amazed at the great number of men of superior qualities which we have found among law enforcement officers.

Naturally, like in all professions, we have come across some who were not worthy to wear the badge. They were crooks, liars and cheats and other officers did not care to associate with them because of their lack of scrupples and morals. Those were the officers who, even though they did not last too long, made you appreciate even more the dedicated and trustworthy ones.

We are proud to say that among our very best friends are a large number of law enforcement officers, and very high on that list is Sheriff Hebert, whom we knew and worked with since his days as a member of the state police.

He was truly a man of great compassion, a quality which unfortunately is sadly lacking in many of our leaders of today.

Naturally, as a politician Sheriff Hebert

had many critics, a great number of whom ran to him for help when they got in trouble or needed assistance of some kind . . . and he helped them. There are stacks of letters on file in his office from grateful parents and from young people, who, themselves, at one time or another, were picked up and sternly spoken to and then fondly fed, put into clean, new clothes, given a bus ticket and sent home. Those expenses were not covered by the sheriff's office, but came out of his pocket. They are just a few of the things the general public did not know about a sheriff who liked people and liked his job.

Dr. S. J. St. Martin, parish coroner, who by state law has assumed the office of sheriff, is the second parish coroner in this century to become sheriff. Dr. William F. Guillotte, then parish coroner, became sheriff when Sheriff Willie Duhe resigned Feb. 15, 1940. A supervisor from the office of Jerome A. Hayes, then state supervisor of public funds, was sent to Edgard at the time to serve as tax collector. It was that vacancy in the sheriff's office which launched Sheriff Hebert on his long career of public service.

DEPLOYMENT OF SOVIET HELICOPTER GUNSHIP

Mr. THURMOND. Mr. President, in the March 4, 1974 issue of Aviation Week & Space Technology there appears an article entitled, "Soviets Deploy Mil Mi–24 Hind Gunship."

This Soviet helicopter gunship can carry the Sagger antitank missile as part of its armament. Another version of the Hind gunship carries rocket pods.

Since cancellation of the Cheyenne Army helicopter gunship program several years ago, the Army has moved to develop a less expensive attack helicopter. Deployment of this helicopter is some time away and, in the meantime, the Army is depending upon its Cobra gunship which is being modified to carry the Tow antitank missile.

This article clearly demonstrates the Soviets continue to move ahead in all areas of military weapons systems. It is my hope those critics of helicopter gunships will take note of these developments and give serious consideration toward keeping our Army equipped with hardware necessary to give adequate support to the ground soldier.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIETS DEPLOY MIL MI–24 HIND GUNSHIP

Soviets are deploying their first helicopter gunship, the Mil Mi–24, with units in East Germany (AW&ST Sept. 24, 1973, p. 11). The helicopter, identified by the NATO code-name Hind, can carry Sagger antitank missiles as part of its armament.

Two versions of the Mi–24 have been put into production. Hind A is the antitank version now being deployed. Hind B carries rocket pods, but not the Sagger anti-tank missile.

Two units of approximately squadron size have been deployed in East Germany. The Soviets are apparently developing tactics for the helicopters similar to those developed by the U.S. Army.

The Mi–24 uses the same engines and drive train as the Mil Mi–8 helicopter. It is powered by two Isotov TV2–117A turboshaft engines developing 1,500 shp. each on takeoff and 1,000 shp. in cruise at 1,500 ft. altitude and 120 kt. (AW&ST Aug. 27, 1973, p. 45).

Both versions of the Hind have short, weapons-carrying wings mounted about midfuselage, but Hind A wings carry more weapons stations than the wings on Hind B. Both carry about 8–12 troops in addition to their weapons load and both have an automatic weapon mounted in a chin turret. The gun is believed to be a 23-mm. weapon.

Hind A has wings with a pronounced negative dihedral and three weapons stations. Outboard stations carry two Sagger wire-guided antiarmor missiles each and may have the capability of carrying Swatter missiles also. Two inboard pylons carry rocket pods.

Hind B has wings without any dihedral, positive or negative, and the wings have only two weapons pylons each.

Wings on both versions are set at approximately 20 deg. angle of incidence to alleviate wing/rotor interaction problems. Wings also unload the rotor in forward flight and permit higher speeds.

Both versions also have retractable landing gear. Main gear retracts into partial wheel wells aft of the wings and is covered with a fairing that forms a noticeable bulge on the aft underside of the fuselage.

This indicates that there was not a great deal of space available inside the helicopter.

Size, speed and performance capability of the Mi–24 are approximately equal to the Mi–8. Fuselage of the Mi–24 is about 65.5 ft. in length, and wing span is approximately 23.25 ft. Overall length of the Hind, from the forward edge of the rotor disk to the rear edge of the tail rotor disk is slightly more than 83.6 ft. or a little more than the Mi–8. Rotor diameter is 70.25 ft., and tail rotor diameter is approximately 12.5 ft. Height to the top of the tail rotor disk is approximately 20.5 ft.

Maximum speed is estimated to be about 140 kt. at maximum gross weight, and cruise speed at about 122 kt. Normal operating range is estimated at about 260 naut. mi.

WASTE DISPOSAL ALTERNATIVE

Mr. DOMENICI. Mr. President, the depletion of our Nation's natural resources—both renewable and nonrenewable—has rightly become a topic of increasing concern. Our resources must be managed as sensibly and efficiently as technology and the state of the art permits if we are to avoid shortages such as our present one in petroleum products. I believe, Mr. President, that legislation to encourage such management should be an important part of our initiatives during this session of Congress.

In order to further our recognition of the wide range of possibilities in this area which are currently available, I request unanimous consent that a recent article from the Washington Post entitled "Waste Disposal: An Example From Rotterdam" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASTE DISPOSAL: AN EXAMPLE FROM ROTTERDAM

(By Benjamin Ronis)

ROTTERDAM, THE NETHERLANDS.—While jurisdictions in the Washington area continue to bicker about where to dispose of their trash and sewage, an excellent example of regional cooperation—something Washington could certainly use—can be found serving the Rijnmond District that includes this major port city.

Set up in the suburb of Botlek after Rotterdam's older facilities became physically and environmentally inadequate, the district's regional solid and liquid waste processing facility is owned and operated by a quasi-public corporation owned by the 23 collaborating municipalities.

A small portion of the stock in this corporation is held by the Rijnmond Public Authority, which has an overseer role in the operation. The balance of the stock is owned by the City of Rotterdam and the other municipalities in the district. User charges are levied against each municipality or private concern on the basis of type of waste and tonnage.

Like all highly industrialized nations, the Netherlands lately has had to cope with an awesome proliferation of liquid and solid waste from urban development. Concentrations of heavy industry, particularly petrochemicals, in the Rotterdam area have reached the point where dumping of liquid chemical wastes into nearby bodies of water cannot be tolerated.

Coupled with this is the fact that landfill sites in the Netherlands are now virtually impossible to come by. Here in the Rijnmond district, where the population is denser than anywhere else in the country and where the land and water are below sea level, landfills and discharging into public bodies of water are environmentally unacceptable and could endanger ground water supplies and create a large health hazard.

The new incinerator at Botlek is capable of disposing 190,000 tons of domestic urban garbage each year in addition to as much as 440,000 tons of normal solid waste from industrial plants nearby. The regional facility is also designed to handle 70,000 tons yearly of solid and liquid waste from nearby chemical manufacturing, processing and sewage treatment plants, for Rotterdam has the world's largest single concentration of oil refineries and petrochemical plants.

(In this area by contrast, the Blue Plains Sewage Treatment Plant treated 107.2 billion gallons of sewage from the city and parts of the suburbs in fiscal 1973. Of some 800,000 tons of trash generated in the District of Columbia that year, a third was handled by the city and the rest by private haulers.)

Rotterdam's solid and liquid waste disposal complex, of which the incinerator is the major component, also includes a power generating unit and a distillation plant. The entire installation was completed last March for a total cost of $70 million.

Prior to the completion of this facility nondestructible items that could not be handled by Rotterdam's older incinerator had to be hauled by train to the northeast of the Netherlands. Increasing costs and the unavailability of landfill sites made continued hauling almost impossible, however, and in 1968 the Rijnmond Public Authority began planning for the creation of a new multipurpose facility, with maximum resource recovery a major goal.

Ground slag recovered from the system is used for road surfacing. Fly ash is sold to the chemical industry and recycled into products used in construction. Special attention is paid to the handling of chemical wastes, some 70,000 tons of which is processed each year.

The jewel of the resource recovery features in the Rijnmond waste treatment center is the power generation plant. Within the complex are located three turbo-generators, each with a capacity to utilize 125 tons of steam hourly. Under normal conditions, the boilers attached to the roller-grate furnaces generate about 250 tons of steam per hour. This allows for one of the turbo-generators to be kept on standby reserve for use when one of the others is down for repairs or the system is operating above normal capacity. All

told, the electric generating system can supply up to 54,000 kilowatts hourly to the national power grid, enough power to heat 3,000 homes.

The turbines were especially designed to service the needs of the companion water distillation plant where five multi-stage evaporators in the system convert salt water into distilled water for industrial usage. Each evaporator can turn 50 tons of steam received every hour into 450 tons of distilled water. The total daily output is almost 13 million gallons, enough to serve the daily domestic needs of a municipality of more than 100,000 people.

The 280-employee plant is situated on the ship channel between Rotterdam and the North Sea. Special unloading facilities with grab cranes were built along the channel to receive refuse brought by water from other areas in the Rijnmond district.

Detectors in the district mounted on tall masts constantly monitor atmospheric conditions such as wind direction and velocity, temperature, pollution index, humidity, atmospheric inversions and other relevant data. This information is relayed to an air-pollution registration center, which analyzes the data and reports periodically to the operators of the waste treatment center. In this manner periodic adjustments can be made to keep air-pollution at a minimum.

A long-term contract with the Netherlands University of Technology will provide continuing research in the ability to extract even greater amounts of hydrochloric and sulfuric acids from the chemical refuse. Judging from the direction of the efforts at the Botlek plant towards maximum resource recovery, new terminology will have to be invented. If the Rijnmond center achieves its goal, almost nothing in the Netherlands will "go to waste."

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CERTAIN ACTION TO BE TAKEN DURING THE REMAINDER OF THE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that for the remainder of this Congress it be in order to refer treaties and nominations on the days when they are received from the President even when the Senate has no executive session that day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order for the proper members of the staff to receive bills, resolutions, and amendments at the desk when signed by the respective Senators at any time during the day when no question is raised thereon, and that in accordance with the rules they be appropriately referred, or amendments be ordered to be printed and lie on the table.

Mr. President, I withdraw that request.

Mr. President, I ask unanimous consent that it be in order at any time during the session of the Senate and for the remainder of this Congress for members of the staff at the desk to receive remarks from Senators for insertion in the RECORD when signed by Senators and when presented at the desk by Senators only.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume the consideration of the unfinished business, S. 2747, to amend the Fair Labor Standards Act of 1938.

There is a time agreement on that bill and on amendments thereto.

Yea-and-nay votes will occur.

It is hoped and believed that final action may occur on that bill tomorrow.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 6:07 p.m. the Senate adjourned until tomorrow, Thursday, March 7, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 6, 1974:

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Willard W. Millikan, [redacted] FG, Air National Guard.

Brig. Gen. Valentine A. Siefermann, [redacted] FG, Air National Guard.

To be brigadier general

Col. Doyle C. Beers, [redacted] FG, Air National Guard.

Col. Robert G. Etter, [redacted] FG, Air National Guard.

Col. Eugene G. Gallant, [redacted] FG, Air National Guard.

Col. Joseph H. Johnson, [redacted] FG, Air National Guard.

Col. Lloyd W. Lamb, [redacted] FG, Air National Guard.

Col. Robert B. Maguire, [redacted] FG, Air National Guard.

Col. Donald E. Morris, [redacted] FG, Air Natioanl Guard.

Col. Stanley F. H. Newman, [redacted] FG, Air National Guard.

Col. Richard F. Petercheff, [redacted] FG, Air National Guard.

Col. Darrol G. Schroeder, [redacted] FG, Air National Guard.

Col. Harding R. Zumwalt, [redacted] FG, Air National Guard.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

Kenneth J. Houghton
Frank C. Lang
Robert D. Bohn
Edward J. Miller
James R. Jones
Charles D. Mize
Norman W. Gourley

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

Albert C. Pommerenk
Herbert L. Wilkerson
Manning T. Jannell
Ernest R. Reid, Jr.
Clarence H. Schmid
Edward A. Wilcox
William L. Smith
Arthur J. Poillon
Kenneth McLennan
Joseph Koler, Jr.
George R. Brier

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of brigadier general:

Robert E. Friedrich
Paul E. Godfrey
Allan T. Wood

EXTENSIONS OF REMARKS

BOSTON, MY HOMETOWN

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. O'NEILL. Mr. Speaker, as the city of Boston, the Commonwealth of Massachusetts and, indeed, the entire Nation approach our celebration of the American Revolution Bicentennial, I offer with pleasure a sparkling article on venerable-yet-modern Boston which appeared recently in the Executive magazine.

Its authoress is Beverlee Ahlin, assistant to the vice president for public affairs of Allegheny Airlines and herself a native of the Commonwealth.

I insert this fine example of contemporary writing in RECORD, as follows:

BOSTON EXAMINES ITS IMAGE AND FINDS IT DELIGHTFUL

(By Beverlee Ahlin)

The City of Boston—"The Athens of America"—"The Hub"—"A State of Mind".

Known as each and all of these since colonial times, Boston is today a city of infinite variety. Increasingly, it has become an attraction and a haven for every visitor—the scholar, the businessman, the artist, the tourist and the history buff. And as the well-planned "Boston 200", its Bicentennial celebration, approaches, it will become more fascinating than ever, not alone for Americans but for visitors from every land.

"Boston runs to brains as well as to beans and brown bread," said one such traveler years ago. How true it is!

The city has within its borders and close by one of the finest educational complexes in the world. Boston University, Northeastern University, Simmons College, and just across the river, the towers of prestigious Massachusetts Institute of Technology, Harvard College's "Yard" (never "campus") and the leafy environs of Tufts University, to mention but a few.

These great institutions of learning have contributed down the years not alone to tens of thousands of inquiring young minds but to the solution of the problems of modern business and government and to the daily improvement of America's way of life.

But this "Athens of America" includes as well not alone these groves of Academe but a